

**The City of Milpitas**  
**And**  
**International Association of**  
**Firefighters Local 1699**

**Memorandum Of Understanding**

**July 1, 2005 – December 31, 2007**

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**COMPREHENSIVE MEMORANDUM OF UNDERSTANDING  
WITH CITY OF MILPITAS AND MILPITAS FIREFIGHTERS UNION, LOCAL 1699,  
ON SALARIES, FRINGE BENEFITS AND WORKING CONDITIONS**

**PREAMBLE**

The authorized representatives of the City Council of the City of Milpitas, hereafter referred to as the "City" and the authorized representatives of the International Association of Firefighters, Local 1699, hereafter referred to as the "Local" do jointly accept and agree to all the terms and conditions of employment set forth in this Memorandum of Understanding (MOU), pursuant to Section 15.13 of the Personnel Rules and Regulations of the City of Milpitas (as amended).

If any section, subsection, sentence or clause or phrase of this Memorandum is for any reason held illegal, invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof. The City and the Union believe that this MOU, and all of the City's related pay practices, comport with the requirements of the Fair Labor Standards Act (FLSA). In the event any employee makes a claim that the MOU contains a provision that does not comply with the FLSA, the City may reopen the item at issue to negotiate, as needed, to ensure compliance with the FLSA.

Unless otherwise specifically amended by the terms of this MOU, any term or condition of employment previously known to and approved by the City (and not terminated by the City) remains as previously established.

This MOU and any agreement, document, or instrument, attached hereto or referred to herein, integrate all terms and conditions mentioned herein or incidental hereto, and supersede all oral negotiations and prior writing in respect to the subject matter hereof.

In accordance with Rule V, Section 8a of Resolution No. 792 (City's Personnel Rules and Regulations), Milpitas Firefighters Union, Local 1699, is recognized as the exclusive representative for matters within the scope of representation for the following listed classifications:

- Captain/Pub Education
- Firefighter
- Firefighter / Paramedic
- Fire Engineer
- Fire Engineer / Paramedic
- Fire Captain
- Firefighter Trainee
- Firefighter/Paramedic Trainee
- Fire Prevention Inspector
- Hazardous Materials Inspector

The term of this Memorandum of Understanding ("MOU") shall be for two and a half (2.5) years commencing at 12:01 a.m. on July 1, 2005, and terminating at 12 midnight on December 31, 2007

The terms and conditions of employment set forth in this Memorandum of Understanding have been discussed in good faith by the authorized representatives of the City and the authorized representatives of the Local. The authorized representatives of the Local agree to recommend acceptance by the employees of all terms and conditions of employment set forth herein and the authorized representatives of the City

agree to recommend to the Milpitas City Council that all terms and conditions set forth herein be approved by resolution. Upon adoption of said resolution, all terms and conditions so incorporated shall become effective as of the dates specified in the Memorandum of Understanding without further action by either party, provided that economic adjustments, except for base wages, shall go into effect on the first pay period following City Council adoption of this MOU, or as otherwise specified in this MOU. It is the purpose of this agreement to achieve and maintain harmonious relations between the City and the Local.

Contractual rights under this MOU (including, without limitation, health benefits, salary and longevity pay) are not "vested rights," and are subject to future negotiation.

## **SECTION 1.00 - EMPLOYEE RIGHTS**

- 1.01 Recognition of Right to Organize: Any employee in the City's competitive service may join, organize or maintain membership in a labor organization if he/she so desires. The City government neither encourages nor discourages these activities, nor does membership or non-membership in any labor organization affect the employee's standing or right as a City employee. The right to join, organize or maintain membership in a labor organization is also extended to any association of municipal employees not identified with any labor organization.

The City and Local shall take any steps necessary to insure that each employee has the right to reach an independent decision regarding membership or non-membership.

- 1.02 Labor and Organization Activities: City employees participating in organizational or other labor local activities or similar activities of any employee association are required to conduct such activities on their own time and not during regularly assigned working hours, with the following exceptions permitted:

- 1.02.1 A steward representing or assisting a fellow employee in the presentation of a grievance may utilize such time as is essential for the presentation to management of the grievance during working hours; however, solicitation of grievances shall be on the employee's own time.
- 1.02.2 Officials of any organization representing City employees may meet on City time with the City Manager or other City officials when such meeting times are approved by the City Manager. A reasonable number of special meetings requiring action by the general membership may be scheduled with prior approval of the Department Head.
- 1.02.3 Business agents or representatives of the Local or other association, or their affiliates, having business (other than recruiting of members) with the officers or individual members of the Local or association or other recognized employee group may meet and confer with such officers or members during the course of the working day for a reasonable time provided that permission is first obtained from the Department Head, if on duty, and the employee's immediate supervisor, and further provided that the conduct of such business will in no way conflict with the performance of City business.
- 1.02.4 Use of the work place or premises for organizational activities other than the presentation of a grievance or the conduct of business as provided for in subparagraph 1.02.2, 1.02.3, and 1.02.5 is allowed only after working hours except

for the purpose of a monthly meeting of the Local membership and may be held between the hours of 9:00 a.m. and 10:00 a.m. The Local shall notify the Department Head with as much advance notice as possible. These meetings shall in no way interfere with the performance of official duties of on-duty personnel. Bulletin boards designated for Local use shall be provided at each fire station.

The City shall provide space and storage locker at a Fire Department facility, as determined available by management, currently designated Station 4 by the Fire Chief, to accommodate a Local file cabinet, bookcase and answering machine, and agrees to pay for one (1) pay phone at each station. There is no intent to create by the Local or provide by the City a "Local Office," however, the City recognizes the Local's need to conduct administrative tasks. This arrangement shall not be used by on-duty members during work hours except as provided for in this section. It is understood that "administrative tasks" excludes political activities. Local agrees not to engage in any political activities while using a City facility.

- 1.02.5 The City shall provide paid release time for Local officers and members to conduct essential Local business such as conventions, symposia, etc., excluding political activity, upon reasonable written notice to the Department Head. A request for release time may be declined, by the Fire Chief, in the event that the release time would necessitate the use of overtime for the days being used at the time of the request. These events include but are not limited to:

<u>ANTICIPATED EVENT</u>	<u>PERSONNEL</u>	<u>DAYS/HOURS</u>
LTD Meetings	2	3 days
Administration of Toys for Tots	1	1-24 hrs
Dental Fund Administration	1	1-4 hrs
CPF Conventions	1	5-6 days
IAFF Conventions	1	5-6 days
IAFF Regional Seminars	1	5-6 days
IAFF Educational Seminars	1	5-6 days

Additional meetings, seminars, conventions, symposia, etc. may be attended if they meet the criteria of this section and are approved by the City.

It is mutually agreed that the Local Executive Board and Fire Administration will meet jointly on a monthly basis. Paid release time shall be provided for up to three members of the Local Executive Board for these meetings. It is understood that there may be other meetings that will require Local members to be granted paid release time subject to approval of the Department Head.

- 1.02.6 The Local's use of City facilities (as noted in this section) shall be conditioned upon the City's right to suspend or revoke said use upon reasonable notice and for just cause. After notifying the Local of City's proposed action, the City Manager or his delegate will convene a meeting to consider the Local's position and to decide whether the use shall be suspended or revoked.
- 1.02.7 City agrees to notify a member of the Local Executive Board in the event of serious injury or death occurring on duty to any member covered by the bargaining unit.

## **SECTION 2.00 - DUES AND REPRESENTATION/SERVICE FEE**

### **2.01 Employee Rights:**

- 2.01.1 The City and the Local recognize the right of employees to form, join and participate in lawful activities of employee organizations and the equal, alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall discriminate against an employee in the exercise of these alternative rights.
- 2.01.2 Accordingly, membership in the Local shall not be compulsory. A unit member has the right to choose, either: to become a member of the Local; or, to pay to the Local a fee for representation services, or to refrain from either of the above courses of action upon the grounds set forth in item 2.05 below.

### **2.02 Unit Members' Obligation to Exclusive Representation**

- 2.02.1 A bargaining unit member who does not fall within one of the exempted categories as set forth in item 2.05 below, and who has not voluntarily made application for membership in the Local within thirty (30) days of either the date upon which this Agreement is executed, or the date upon which said unit member has been employed by the City, whichever is later, must, as a condition of employment in the City, pay monthly by payroll deduction to the Local, a representation/service fee in exchange for representation services necessarily performed by the Local in conformance with its legally imposed duty of fair representation on behalf of said unit member.

### **2.03 Definition of Representation Fee:**

- 2.03.1 The representation/service fee to be collected from non-Local unit members shall be an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the Local.
- 2.03.2 Any dispute as to the amount of the representation fee shall be resolved by an arbitration panel consisting of three members: 1) Local Treasurer, 2) City Director of Financial Services, 3) member selected by the grievied party. Pending such resolution, the representation/service fees deducted shall be held in an escrow account pending a determination of the correct amount of the fee.
- 2.03.3 Unit members on voluntary leave without pay, and unit members who are on laid-off status shall be exempt from this section except that the election as to the membership or payment of a fee as set forth in 2.02.1 above must be exercised within the first ten (10) workdays upon return to said status.

### **2.04 Annual Verification of Representation Fee by Local:**

- 2.04.1 The Local shall keep an adequate itemized record of its financial transactions and shall make available annually, to the City and to the unit members, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and operating statement, certified as to accuracy by its President and Treasurer, or by a certified public accountant.

2.05 Unit Members Exempted from Obligation to Pay:

- 2.05.1 Any unit member may be exempted from payment of any representation/service fees to the Local if that person is a member of a bona fide religion, body, or sect with historically held conscientious objections to joining or financially supporting public employee organizations. Such exempt unit member shall, as an alternative to such representation/service fee to a choice of any of the following: United Way, Santa Clara County Burn Unit, American Cancer Society. The City, upon written request from the Local shall require such exempt unit member to submit a written affidavit to the Local verifying the existence and nature of the allowable objection to payment of a representation/service fee and in addition, shall require such exempt unit member to submit proof of payment of an amount equivalent to such representation/service fee to the organization listed above.

2.06 Payment Method:

- 2.06.1 A unit member shall sign and deliver to the City a written authorization to deduct the properly established representation/service fee as defined in Section 2.03 above. Upon receipt of the authorization duly completed and executed, the City will deduct from the pay of unit members and pay to the Local the normal and regular monthly representation/service fee.
- 2.06.2 In the event that a unit member who is not exempted from payment under item 2.05 above does not sign and deliver to the City an authorization pursuant to item 2.06.1 above, the Local shall request in writing that the City deduct from the pay of the unit member and pay to the Local the normal and regular monthly representation fee without the approval of the unit member. In such case, the City shall begin automatic payroll deduction for the representation/service fee due from the date of ratification of this Agreement or first date of the unit member's employment, whichever is later. There shall be no charge to the Local for such mandatory representation/service fee deductions.
- 2.06.3 Prior to beginning such payroll deduction pursuant to item 2.06.2, the Local will certify to the City in writing that the unit member whose pay is affected by the deduction has (1) not joined the Local; (2) not voluntarily tendered the amount of the representation/service fee as defined herein; and (3) has not qualified for an exemption under item 2.05 herein. The Local shall also notify the unit member in writing that due to the unit member's failure to fulfill any of the above three (3) requirements the Local has requested the City to begin automatic payroll deduction of the representation/service fee. The Local shall provide the City with a copy of said written notice to the unit member. Thereafter, the City will begin the automatic deductions.
- 2.06.4 The City is under no obligation to make payroll deductions for periods during which a unit member is either terminated from employment or not on the City's payroll for any reason, including, but not limited to, layoff and voluntary leave of absence for more than thirty (30) days.
- 2.06.5 Upon the rehiring of any unit member, the City will treat such unit member as a new unit member for purposes of this Section.

2.07 City's Obligation:

- 2.07.1 City's sole and exclusive obligations under this Section are to notify any unit member who has failed to comply with the provisions of this Section that, as a condition of employment in the City, such unit member must either become an Local member, pay a representation/service fee, either through voluntary or involuntary deductions, or establish an exempt status and make payment pursuant to item 2.05 of this Section, and to make payroll deductions pursuant to item 2.06.1 and 2.06.2 of this Section. Under no circumstances shall the City be required to dismiss any unit member for failure to fulfill his/her obligations to pay the fees established herein.

2.08 Hold Harmless and Indemnity Provision:

- 2.08.1 The Local as defined in this Section shall hold the City harmless, and shall fully and promptly reimburse the City for any fees, costs, charges or penalties incurred in responding to or defending against claims, disputes, challenges, which are actually brought against the City or any of its agents, in connection with the administration or enforcement of any section in this section pertaining to representation/service fee. Such reimbursement shall include, but not be limited to, court costs, litigation expense, and attorney's fees incurred by the City.

**SECTION 3.00 - CITY RIGHTS**

- 3.01 The City continues to possess exclusively the rights listed below, plus all other rights to which by law the City is entitled. These rights may not be abridged or modified in any way, except by formal legislative action by the City Council (i.e. -- resolution or ordinance).

The City has the right, and may exercise its discretion:

- 3.01.1 To determine the mission of all constituent departments, commissions and boards;
- 3.01.2 To set standards of service
- 3.01.3 To determine the appropriate levels of city services, except where defined in the MOU;
- 3.01.4 To take disciplinary action for just cause
- 3.01.5 To organize and reorganize its departments and affairs, and to otherwise exercise complete control and discretion over its organization;
- 3.01.6 To employ any appropriate means or method to maintain the efficiency of government operations and administration;
- 3.01.7 To determine when an emergency exists and to take all necessary action to carry out its mission in an emergency, including recalling and deploying off-duty personnel and requiring overtime work;
- 3.01.8 To determine the procedures and standards of selection for employment and promotion;



- 3.01.9 To determine the scope of duties and responsibilities applicable to all positions of employment, and determine the content of job classifications;
- 3.01.10 To direct employees, make assignments and require overtime work;
- 3.01.11 To transfer or reassign employees, as outlined in the MOU;
- 3.01.12 To layoff employees by position as a result of: elimination of positions through City Council resolution; lack of work; budgetary considerations (including without limitation lack of funds or a revenue downturn); reorganization; or other related reasons;
- 3.01.13 Except that any agreement between the City and the Local evidenced by a memorandum of understanding pursuant to GC 3500 et. seq. shall take precedence over any of the above enumerated employee and management rights; and that such memorandum of understanding will be honored in good faith during the life of this contract.
- 3.01.14 Any violation of the policies and procedures created by this MOU may be subject to disciplinary action as defined in this MOU.

#### **SECTION 4.00 - ADVANCE NOTICE, COORDINATION AND CONFLICT RESOLUTION**

- 4.01 Except in cases of emergency as provided in this section, the City shall give reasonable written notice to each recognized employee organization affected by an ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation including actions taken under City Rights that effect wages, hours and other terms and conditions of employment proposed to be adopted by the City and shall give such recognized employee organizations the opportunity to meet with City representatives.
- 4.02 There shall be four general methods of interaction between labor and management to provide for changes and additions to the services provided by the department, to provide for informal resolution of issues that may arise from time to time, to develop alternative solutions to challenges faced by the department and to review the status of department programs and activities.
  - 4.02.1 Regular monthly meetings will be held between the leadership of the Local and the Fire Chief/Executive Staff to exchange information and to resolve issues of general concern to either group, including proposed changes or additions to service levels and programs. These meetings shall be scheduled by the mutual consent of the Local President and Fire Chief and may be canceled or rescheduled with the consent of the President and Fire Chief.
  - 4.02.2 A standing Policy review committee, consisting of three Battalion Chiefs and three designated representatives of the Local, shall meet on a scheduled basis to review and recommend solutions to conflicts that may arise over the application of policy or between individuals within the organization. The main objectives of this committee are to achieve consistency in the application of policies and procedures, to recommend improvements in policies and procedures and to provide an informal

method of resolving complaints of individuals within the organization with regard to the application of policies and procedures.

In the event this body is unable to reach a consensus in determining an appropriate response to recommend in a given situation, the Division Chief most affected by the issue shall meet with the committee to facilitate an acceptable solution.

In the event the Division Chief is unable to facilitate a consensus recommendation, he/she and the committee shall meet with the Fire Chief to resolve the dispute.

- 4.02.3 Ad-hoc committees may be formed by mutual consent of the Local and the Fire Chief to review and recommend courses of action which may require special attention. Such committees shall be singular in purpose and shall be dissolved upon achieving the assigned goal of the committee.
- 4.02.4 Standing committees shall meet on a regular basis regarding matters of continuing concern. These shall include the Department Safety Committee and such other committees as may be deemed appropriate by the Fire Chief for the effective operation of the department.
- 4.02.5 Membership on all committees created according to this section shall be determined by mutual understanding of the Fire Chief and Local President. The Fire Chief shall appoint the chairperson/coordinator for each committee, except that the Chair of the Policy Review Committee shall be selected annually by the members of that body.
- 4.02.6 Where deemed necessary by both the Fire Chief/Executive Staff and the leadership of the Local, single items may be reopened for further negotiation. However, every effort shall be made to limit such re-openers to single items of major import that need to be addressed during the term of the current M.O.U.

## **SECTION 5.00 - DISCIPLINARY ACTION**

The City may take disciplinary action against any Employee for just cause. The City recognizes the practice of progressive discipline; provided, however, depending on the severity of the offense, the City may immediately charge more severe discipline.

- 5.01 Grounds for Discipline: Discipline may be imposed for just cause, including without limitation for the following grounds:
  - 5.01(a) Fraud in securing appointment or falsification concerning records, fellow employees, or work performed;
  - 5.01(b) Failure to perform satisfactorily the duties and responsibilities of an employee's position;
  - 5.01(c) Neglect of duty;
  - 5.01(d) Insubordination;
  - 5.01(e) Reporting for or performing duty under impairment as a result of alcohol and/or drug

use;

- 5.01(f) Dishonesty or misuse or misappropriation of City property and funds;
- 5.01(g) Conviction of any crime involving moral turpitude, or substantially relating to the function of an employee's position;
- 5.01(h) Un-authorized absence without leave;
- 5.01(I) Non-observance of work hours, including tardiness, and abuse of sick leave privileges;
- 5.01(j) Discourteous or non-cooperative treatment of the public or other employees;
- 5.01(k) Conduct, either during or outside of duty hours, which is of such a nature that it causes discredit to the employee's department of the City;
- 5.01(l) Failure to abide by any condition of employment stipulated in the: Municipal Code; personnel rules and regulations; any personnel policies and procedures; or memoranda of understanding approved by formal action of the Council;
- 5.01(m) Knowingly filing or pursuing a false charge; or
- 5.01(n) Abuse of any City administrative processes.

## 5.02 Pre disciplinary Procedures

- 5.02.1 Prior to taking any disciplinary action, as defined in Section 5.02.6, against a permanent employee, the City shall notify the employee in writing of the following:
  - (a) The proposed disciplinary action;
  - (b) The nature of the charges and/or violation of City ordinances, resolutions, written procedures, municipal code, or departmental regulations and policies;
  - (c) The reasons for the proposed action;
  - (d) The materials upon which the action is based;
  - (e) The opportunity of the employee to appear before a designated City representative and respond to the charges at a specified place and time;
  - (f) The right of the employee to be represented by an attorney or other representative at any disciplinary conferences or proceedings.
- 5.02.2 If the City representative determines that he or she cannot be impartial, or upon timely written request by the employee, the Human Resources Director or designee may hear the employee's response.
- 5.02.3 Any employee notified pursuant to 5.02.1 above who desires an opportunity to

respond may do so by appearing at the appointed place and time. Said response may be oral or in writing. The employee is not entitled to an evidentiary hearing, and the sole purpose of the meeting shall be to hear the response of the Employee to the charges. The employee shall be entitled to representation, but shall not be entitled to present witnesses, unless the City determines that the presentation of witnesses is necessary.

- 5.02.4 In the event that the Employee is unable to respond to the charges within the time permitted, and demonstrates the reasonableness of a continuance, the City may grant a continuance.
- 5.02.5 As soon as practicable after the employee has had an opportunity to present a response, the City will notify the employee in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. Said notification will also advise the employee of any right of appeal. Upon the employee's written request, the City will send copies of the applicable disciplinary materials to the employee's designated representative.
- 5.02.6 For the purposes of the application of the procedures outlined in sections 5.02.1 through 5.02.5, a disciplinary action shall be defined as a suspension of at least three (3) working days for those employees assigned to a standard 40-hour week, or 36 hours for those assigned to the firefighters' 56-hour work week, or an equivalent reduction in salary, demotion or discharge.

### 5.03 Corrective Action

The following are methods of corrective action that are not disciplinary but normally precede discipline. (City of Milpitas Standard Procedure 15-1)

- 5.03.1 Verbal Counseling: Typically, the first and lowest level of a corrective action is an employee counseling session. The purpose of this action is to ensure that the employee is made aware of the violation or misbehavior in question and is advised of the appropriate action or behavior that is expected in the future. A discussion should occur between the employee and supervisor to address any clarification needed. It is expected that the employee will not repeat the violation or misbehavior following this meeting. This step is intended for minor offenses and first violations.
- 5.03.2 Verbal Warning: Verbal warning to the employee that future behavior could lead to disciplinary action. (City of Milpitas Standard Procedure, 15-1)
- 5.03.3 Written Warning: Memorandum to the employee noting that future behavior could lead to disciplinary action. Written warnings are not copied to the employee's personnel file but are kept in department or supervisor's files. (City of Milpitas Standard Procedure 15-1, example 1)

### 5.04 Review of Corrective Actions

- 5.04.1 Discipline of less severity than defined in Section 5.02.6 shall not require the pre-disciplinary procedures outlined in Section 5.02 unless required by law. However, in order to ensure fairness or to confirm facts in support of a disciplinary action, an employee may request a review of the circumstances by the Fire Chief or designee.

The Fire Chief or designee shall determine the appropriateness of the action taken and/or consistency of the action with past practices in similar situations. The Fire Chief or designee may modify the disciplinary action based on this review.

5.05 Disciplinary Action

- 5.05.1 Written Reprimand: Repeated violations or more severe misbehavior may require a more formal response by the supervisor to the employee. In this case the employee is provided with a written memorandum which outlines the violations being addressed and the expected actions to be taken by the employee in response to the memorandum. The written reprimand contains an indication of subsequent disciplinary steps to be taken in the event that the employee fails to respond appropriately. A copy of the written reprimand shall be placed in the employee's official personnel record.
- 5.05.2 The Human Resources Director shall remove a letter of reprimand from a personnel file based upon a written request by the employee submitted to and approved by the Fire Chief provided there have been no additional disciplinary actions during the subsequent twelve (12) months.
- 5.05.3 Loss of Privileges/Workplace Restrictions: In the event of more severe violations or repeated misbehaviors, the employee may be restricted from certain privileges or may not be allowed to participate in certain privileges or may not be allowed to participate in certain department programs or activities as a form of discipline. In this case, the specific restrictions shall be outlined in a written memorandum along with the time period that the restriction shall be in place. In addition, the memorandum shall contain all of the elements outlined in Section 5.05.1.
- 5.05.4 In the event an employee faces any loss of privileges and or work restrictions, it shall typically be the employee's immediate supervisor who makes the recommendation and presents it to the next level supervisor. The recommended action shall be reviewed and approved by the appropriate designee of the Fire Chief before it is implemented.
- 5.06 Suspension: In the event of more severe or repeated violations, the employee may be relieved of duty by the City for a specified period of time without pay. Such suspension shall not exceed thirty (30) calendar days (or up to and including 10 shifts for 56-hour personnel) and shall be subject to the procedures outlined in sections 5.02 or 5.03.
- 5.07 Reduction in Salary Range: In the event of more severe or repeated violations, the employee's salary may be reduced by the City within the range for the position held. Such reduction in salary shall be subject to the procedure outlined in Section 5.01
- 5.08 Involuntary Demotion: In the event of more severe or repeated violations, the employee may be reduced in rank and pay by the City. Such demotion shall be in conformance with Section 5.01
- 5.09 Termination of Employment: The City may terminate the employment of an employee for more severe or repeated violations of the City or Department rules, regulations, policies or procedures. Such termination shall be in conformance with Section 5.02.
- 5.10 Appeal of Discipline: An employee subject to disciplinary action as defined in section 5.02.6 may

appeal the discipline pursuant to the grievance and arbitration process outlined in this MOU. Appeals of such discipline shall be submitted at Step II of the grievance procedure (i.e., the Fire Chief or designee).

## **SECTION 6.00 - LAYOFF**

- 6.01 Any layoff shall be according to seniority and the procedures defined in Municipal Code Section VI-102 et seq.
  - 6.01.1 The City may lay off an employee because of material change in duties, organization, or shortage of work or funds in the department or the City.
  - 6.01.2 The City shall notify the affected employee(s) in writing at least thirty (30) days in advance of the intended layoff and of their option to accept a voluntary demotion in lieu of layoff.
  - 6.01.3 Employees laid-off or accepting demotions in lieu of layoff shall be placed on a Re-Employment List in inverse order of displacement for an appropriate Class for three (3) years.

## **SECTION 7.00 - CHANGE IN STATUS OF EMPLOYMENT (NON-DISCIPLINARY)**

- 7.01 Demotions:
  - 7.01.1 Involuntary Demotion: The Fire Chief may demote or reduce the salary of an employee whose performance does not meet established minimum standards for the position held. Such demotion, while not disciplinary, shall be subject to the review procedure outlined in Section 5.02.
  - 7.01.2 Voluntary Demotion: Upon the request of the employee, the Fire Chief may approve a voluntary demotion.
  - 7.01.3 No employee may be demoted to a position for which the employee does not possess the minimum qualifications.
- 7.02 Promotion: The Fire Chief may promote an employee to a regular position within the Department subject to the City Personnel Rules and regulations. Temporary or acting assignments shall not be subject to those provisions.
- 7.03 Resignation: An employee wishing to resign in good standing shall notify the Fire Chief in writing of the date of termination of employment. Such written notice shall be delivered to the Fire Chief, or his/her authorized representative, at least two calendar weeks prior to the effective date of termination.
- 7.04 Job Abandonment: An employee who fails to appear for work for four (4) consecutive work shifts without proper notice or authorized leave shall be deemed to have abandoned his/her position with the City. Such abandonment shall be considered a voluntary termination subject to such review and appeal as is provided by law.

- 7.05 Separation in Good Standing: An employee shall be deemed to have separated from City service in good standing, and shall be eligible for such benefits and rights as may accrue as a result of that status, if the employee has separated under the conditions outlined in Sections 6.00 or 7.03.

## **SECTION 8.00 - GRIEVANCE PROCEDURE**

### **8.01 Definitions**

- 8.01.1 For the purposes of this section, a "grievance" is any dispute concerning the interpretation or application of this MOU, or appeal of a formal disciplinary action, containing the elements listed in section 8.03.2.1. For the purpose of arbitration, a disciplinary action shall be as defined in Section 5.02.6. Complaints or disputes in which a specific review is provided for by law (i.e. OSHA, EEOC, DFEH) or by the City's personnel rules (i.e. Other Employment, Examinations) or reserved as City rights (except as provided in Personnel Rule Sections 15.05, 15.07 and G.C. Section 3500 et. seq.) shall not be subject to this grievance procedure.
- 8.01.2 A "grievant" is any Employee adversely affected by an alleged violation of the specific provisions of a Memorandum of Understanding or a formal disciplinary action.
- 8.01.3 A "day" is any day in which the City Hall is open for business.
- 8.01.4 "Employee organization" is IAFF Local 1699.

### **8.02 General Provisions**

- 8.02.1 Every effort will be made by the parties to settle grievances at the lowest possible level.
- 8.02.2 Until final disposition of a grievance, the grievant shall comply with the directions of the grievant's immediate supervisor.
- 8.02.3 All documents dealing with the processing of a disciplinary grievance shall be filed in the personnel file of the grievant.
- 8.02.4 No party to a grievance shall take any reprisals against the other party to the grievance because the party participated in an orderly manner in the grievance procedure.
- 8.02.5 Failure of the grievant to adhere to the time deadlines shall mean that the grievance is settled. The grievant and the City may extend any time deadline by mutual agreement.
- 8.02.6 Every effort will be made to schedule meetings for the processing of grievances at times which will not interfere with the regular workday of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any employee required by either party to participate as a witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable

amount of time. Overtime is not provided for off-duty time except for witnesses requested to testify by the City.

8.02.7 Either the City or the grievant may be represented at any step of the grievance procedure by an individual of the party's choice.

8.02.8 Any employee may at any time present grievances to the City and have such grievances adjusted without the intervention of the Local, as long as the adjustment is reached prior to arbitration and is not inconsistent with the terms of this Memorandum of Understanding or the Rules; provided that the City shall not agree to a resolution of the grievance until the Local has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.

8.02.9 The City and the employee organization may agree to consolidate grievances at any level.

### 8.03 Procedure

#### 8.03.1 Informal Resolution

An employee who has a problem or complaint shall first try to get it settled through discussion with the employee's immediate supervisor within thirty (30) calendar days following the occurrence, or knowledge of the events on which the grievance is based. Employees waive the right to advance a grievance if not raised within such thirty (30) day period. The immediate supervisor shall respond within ten (10) days. Any decision rendered shall be consistent with the authority to do so.

#### 8.03.2 Level I

If the employee is not satisfied with the outcome of informal resolution, the employee may initiate a formal grievance with the next level supervisor. Such formal grievance must be initiated within ten (10) days. The supervisor shall respond to the grievance in writing within ten (10) days.

##### 8.03.2.1 Element of a Grievance

The written grievance shall include:

- (a) a description of the specific grounds of the grievance including names, dates, and places necessary for a complete understanding of the grievance;
- (b) a specific explanation of how the grievant has been adversely affected;
- (c) a listing of the provisions of the MOU which are alleged to have been violated;
- (d) a listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable;



- (e) a listing of specific actions requested by the grievant of the City which will remedy the grievance;
- (f) a statement declaring self representation or the selection of Local representation for said grievance; and
- (g) the signature of the grievant.

#### 8.03.3 Level II - Department Head

If the employee is not in agreement with the decision rendered, he/she shall have the right to file a formal written appeal to the Department Head (with a copy to the Human Resources Director) within ten (10) days after the date a decision has been rendered at Step I. The grievance shall include the elements listed in section 8.03.2.1, and also a description why the grievant believes the decision at Level I was incorrect. The Department Head shall consider the grievance, and submit a written response within ten (10) days.

#### 8.03.4 Level III - City Manager

If the employee is not in agreement with the decision rendered by the Department Head, he/she shall have the right to file a formal written appeal to the City Manager within ten (10) days after the date a decision has been rendered at Step II. The grievance shall include the elements listed in section 8.03.2.1, and also a description why the grievant believes the decision at Level II was incorrect. The City Manager shall consider the grievance, and submit a written response within ten (10) days. Unless the grievance is subject to arbitration (as defined herein), the City Manager's decision is final.

#### 8.03.5 Level IV - Arbitration

- (a) If the matter is subject to arbitration as defined herein, and the grievant is not satisfied with the decision of the City Manager, the grievant may within ten (10) days of the date of the decision submit a request in writing to the Human Resources Director that the grievance be submitted to arbitration. The grievant and the City shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Conciliation Service supply a panel of five (5) names of persons experienced in hearing grievances involving public employees. Each party shall alternately strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.
- (b) If either the City or the grievant so requests, the arbitrator shall hear the merits of any issue raised regarding the arbitrability of a grievance first. No hearing on the merits of the grievance will be conducted until the issue of arbitrability has been decided.
- (c) The arbitrator shall, as soon as possible, hear evidence and render a decision on the issue or issues. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step. A certified court reporter

shall record the entire arbitration hearing unless the parties mutually agree otherwise.

- (d) The jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of the MOU. The arbitrator shall be without power or authority to make any decision that requires the City to do an act prohibited by law.
- (e) After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit written findings and decision which are final and binding on all parties.
- (f) The fees and expenses of the arbitrator and the certified court reporter shall be shared equally by the City and the grievant, or employee organization, if the employee organization represents the grievant at the arbitration. Financial responsibility shall be confirmed prior to selection of an arbitrator. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other.
- (g) This grievance procedure is the exclusive remedy to resolve disputes as described herein.

## **SECTION 9.00 - PAY PLAN**

- 9.01 Advancement shall not be automatic, but shall depend upon increased service value of an employee to the City as exemplified by the recommendations of the employee's supervisor, length of service, performance record, special training and/or other pertinent evidence. No salary advancements shall be made so as to exceed the maximum rate established in the pay plan for the class to which the advanced employee's position is allocated.
- 9.02 In administering the Pay Plan the following rules shall be observed.
  - 9.02.1 Entry level firefighters shall serve in the position of Trainee until successful completion of the basic fire academy. Trainees shall receive base salary of A step Firefighter, less ten (10) percent. See Section 33.06 for benefits.
  - 9.02.2 After completing the basic fire academy, personnel shall typically be compensated at the Step "A" rate, although they may start at a higher rate, if they are unusually well qualified, or other conditions warrant, but only with the approval of the City Manager.
  - 9.02.3 Step "B" represents an incentive adjustment. An employee shall be eligible for Step "B" only after completion of the prescribed probationary period on recommendation from the department head and approval of the City Manager.
  - 9.02.4 Step "C" represents the rate at which a qualified and experienced employee should be paid after a reasonable period of service. An employee shall become eligible for Step "C" only after the employee has proven himself/herself satisfactory in the given classification for a period of at least one year after completion of the employee's

probationary period upon recommendation from the department head and approval of the City Manager.

- 9.02.5 Step "D" represents an incentive adjustment for satisfactory performance and increased effectiveness. An employee shall be eligible for Step "D" after completion of one year at Step "C" upon recommendation of the Department Head and approval of the City Manager.
- 9.02.6 Step "E" represents an incentive adjustment for increasingly satisfactory performance. An employee shall be eligible for Step "E" after completion of one year at Step "D" upon recommendation of the Department Head and approval of the City Manager.
- 9.02.7 Employees who have demonstrated outstanding ability may be advanced to the next higher step prior to completion of one-year service at the current step upon recommendation of the Department Head and approval of the City Manager. Approval of an early step increase shall not affect the eligibility date for the next step.
- 9.03 In cases where an individual may be promoted within 45 days of a regular merit increase, the promotion increase will be based on step increase due within 45 days provided that performance merits the increase.
- 9.04 Salary Following Promotion
- Employees receiving a promotion shall receive at least a 5% increase in salary unless limited by the maximum salary range.
- 9.05 Overpayment Resolution
- In the event an employee receives overpayment by the City, the employee shall reimburse the City for the total overpayment, and the City may obtain reimbursement by payroll deduction(s). Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the City Finance Director.

## **SECTION 10.00 - VACATION LEAVE AND CTO**

- 10.01 The purpose of the annual vacation leave is to enable each eligible employee annually to return to his/her work mentally refreshed. All City employees shall be entitled to annual vacation leave with pay beginning at the end of their first six months in the service of the City. However, vacation credits for this probationary period will be granted to each employee from the date of his/her initial appointment.
- 10.02 Accumulation: Fire Department shift personnel accumulate vacation credits in proportion to other employees so that they receive an equivalent amount of vacation time off when their shift schedule is taken into account.

### 10.03 Accumulation Rates

10.03.1 All eligible employees on a 56 hour work week shall accumulate vacation hours as follows:

- (a) Entry level through the completion of the fourth year shall earn 120 hours per year. (5 shifts)
- (b) Fifth year through the completion of the ninth year shall earn 168 hours per year. (7 shifts)
- (c) Tenth year through the completion of the fourteenth year shall earn 224 hours per year. (9 shifts)
- (d) Fifteenth year through the completion of the nineteenth year shall earn 240 hours per year. (10 shifts)
- (e) Twentieth year and thereafter shall earn 288 hours per year. (12 shifts)

10.03.2 Employees on a 56-hour workweek are limited to maximum number of shifts selected for a single vacation period in this process as listed below:

0-4 years	5 shifts
5-9 years	7 shifts
10-14 years	9 shifts
15-19 years	10 shifts
20 or more years	12 shifts

10.03.3 Personnel permanently assigned to a 40-hour workweek shall accumulate vacation and leave as follows:

- (a) Employee shall earn vacation credits at the rate of 3.38 hours biweekly for each full two weeks of service;
- (b) After completion of the fourth year of service, vacation credits for employees shall be increased to the rate of 4.92 hours biweekly for each full two weeks of service;
- (c) After completion of the ninth year of service, vacation credits for employees shall be increased to the rate of 6.46 hours biweekly for each full two weeks of service.
- (d) After completion of the fourteenth year of service, vacation credits for employees shall be to the rate of 8.0 hours biweekly for each full two weeks of service.
- (e) After completion of the nineteenth year of service, vacation credits for employees shall be increased to the rate of 9.5385 hours biweekly for each full two weeks of service.

### 10.04 Vacation Schedule

- 10.04.1 Vacation selection shall occur by seniority (time of employment) on each platoon.
- 10.04.2 There may not be more than two (2) members on vacation on any scheduled work shift.
- 10.04.3 No vacation selection shall be approved when such selection will cause shift staffing to drop below the established minimum and which will thereby create a need for overtime coverage. This standard shall be applied at the time the vacation shift is requested.
- 10.04.4 Vacation selection shall occur and be concluded by December 31.
- 10.04.5 Each round of vacation selection shall include the identification of a single shift or a group of continuous shifts by each member, chosen by order of seniority, until all vacation periods are chosen.
- 10.04.6 In the event an individual cancels a scheduled vacation period or day, notification of the employee's intent to cancel their vacation must occur at least 24 hours prior to the beginning of that leave. The Battalion Chief shall make every reasonable effort to notify all shift members of the cancellation. Those days shall then be available for the assignment on the basis of seniority, with the most senior member of the shift given first choice to schedule those additional days of vacation.
- Personnel who report for duty on a day when they are scheduled for vacation shall have the option of remaining on duty or using their vacation. If they remain on duty, they shall be assigned to their regular bid position. Personnel who have been scheduled for overtime but released from duty because the person who was scheduled for vacation reports for duty shall receive no compensation and shall have their overtime balances returned to the balance in place prior to the assignment of overtime.
- 10.04.7 Scheduled vacation shall include all shifts that are selected during the formal annual vacation assignment process. Unscheduled vacation shifts may be approved following the formal process for any remaining shifts where less than two members have approved vacation leave and when such additional vacation shifts will not diminish shift staffing below the established minimum.
- 10.04.8 Seniority (time of employment) shall prevail concerning vacation selection for sections 10.04.4 and 10.04.7 only at the time of request. Senior personnel may not bump other personnel from a requested day once the day has been scheduled.
- 10.05 Vacation Carryover: In the event an employee's accumulated vacation credit exceeds 480 hours (20 shifts) on the last day of the pay period that includes December 31. City shall pay the employee the value of said excess so that he or she does not carryover vacation amounts in excess of 480 hours from year-to-year.
- 10.06 Payout Upon Separation: Upon separation, an employee shall be entitled to compensation for all accrued vacation leave.

- 10.07 Payout for Existing Employee: Employees may elect to cash out a maximum of 56 hours of their accrued vacation leave balance per fiscal year, provided that those employees with accrued vacation leave balances exceeding 168 hours may elect to cash out a maximum of 112 hours per fiscal year. Vacation cashouts must be requested in advance, and only on a quarterly basis, as follows: a) for payment in March, the request must be received by Finance no later than February 28; b) for payment in June, the request must be received by Finance no later than May 31; c) for payment in September, the request must be received by Finance no later than August 31; d) for payment in December, the request must be received by Finance no later than November 30.
- 10.08 Vacation and CTO for 24-hour shift personnel shall be scheduled and taken in at least eight (8) hour increments from the start of the duty shift at 0800 hours until 2200 hours. Any personnel requesting vacation or CTO from 2200 hours until 0800 hours shall be required to take the entire ten (10) hours as leave.

Personnel who have scheduled an eight (8) hour or more increment of vacation or CTO may not return to duty later than 2200 hours.

The increment of vacation or CTO used by personnel may be adjusted with prior approval of the Fire Chief.

- 10.09 Only one employee may be off duty on CTO during any shift. Employees may schedule CTO in advance no more than forty-five (45) days in advance of the requested time off. Employees must have sufficient CTO banked at the time of their request for time off to cover the leave period requested.

CTO shall not be scheduled or allowed when implementation of CTO will create a need for overtime to maintain minimum staffing levels at the time of the request.

If two or more employees request CTO for the same day, during the same 24 hour period, seniority (date of permanent hire) shall determine who is granted CTO.

The Union and the City agree that these CTO limitations are necessary to avoid undue disruption in the day-to-day operations of the Fire Department.

## **SECTION 11.00 - SICK LEAVE**

- 11.01 All full-time employees shall be granted paid sick leave credits beginning with date of original employment at the rate of one work day for each calendar month of municipal service. Employees become eligible to take accrued sick leave upon completion of one full month of continuous service. Sick leave shall not be considered as a benefit which an employee may use.
- 11.01.1 Sick leave which is required after the employee reports to duty may be initiated as needed but must last for the remainder of the shift. An employee may not leave and return under these circumstances.
- 11.02 Fire Department shift personnel shall accrue sick leave at the rate of one 24-hour shift per month. Sick leave accrual shall be unlimited.
- 11.03 In cases of illness, employees working a 56 hour shift shall call the Duty Chief at Station 1 prior to 7:00 a.m. and request sick leave. Employees assigned to a 40 hour shift shall call the Fire

Marshall or designee prior to the beginning of the work day. The employee shall in his or her requesting call state:

- 11.03.1 the nature of the illness;
  - 11.03.2 the expected duration of illness;
  - 11.03.3 whether the condition is being treated by a physician;
  - 11.03.4 where the employee may be contacted.
- 11.04 Any employee who returns to duty after their fourth usage of sick leave in a calendar year may be required without cause to provide a doctor's certificate if requested by the Fire Chief. The cost of the doctor's certificate, if any, shall be paid by the employee.
- 11.05 A doctor's certificate shall:
- 11.05.1 be signed by a medical doctor;
  - 11.05.2 state when the employee may return to work;
  - 11.05.3 state the date the employee was examined; and
  - 11.05.4 indicate the nature of the illness or injury.
- 11.06 Unless an illness or injury is compensable under the Worker's Compensation Law, an ill or injured employee will have absent time charged to their available sick leave or accrued vacation pay until a determination is made that the illness or injury is compensable under the Worker's Compensation law. If available sick leave and vacation pay are insufficient or exhausted, absent time will be deemed to be leave without pay pending a determination that the illness or injury is compensable under the Worker's Compensation Law.
- For the purposes of subsection 11.06 only, compensability may be determined by the City Manager upon the prompt filing of a supervisor's report, medical reports, if required and other satisfactory evidence. Any determination hereunder is tentative and without prejudice to the right of the City to contest the claim.
- 11.07 Upon separation from the City (not including retirement), except when an employee is terminated for just cause, the City shall pay the separating employee who has at least five (5) years of service, for unused accrued sick leave. The amount paid shall be equal to 2.5% per year of service for unused accrued sick leave. The pay out formula shall be  $2.5\% \times \text{years of service} \times \text{highest hourly rate} \times \text{sick leave hours accrued}$ . Employees with less than five (5) years of service are not entitled to compensation for unused sick leave under this section upon separation. Shift personnel shall first have their accrued sick leave converted by a factor of 1 to 3 and hourly rate converted by a factor of 1.4 to 1.
- 11.07.1 Employees hired after January 1, 1995, who are separating from the City with at least five (5) years of service and are not being terminated for just cause shall be paid for unused sick leave, after their sick leave hours have been converted as described in Sections 11.07 and 38.50.3, using the following formula:
  - 11.07.2 After completion of the fourth year:  $0.25\% \text{ per year} \times \text{hourly rate} \times \text{accrued sick leave hours}$ .
  - 11.07.3 After completion of the ninth year:  $0.50\% \text{ per year} \times \text{hourly rate} \times \text{accrued sick leave hours}$ .

- 11.07.4 After completion of the fourteenth year: 0.75% per year x hourly rate x accrued sick leave hours.
- 11.07.5 After completion of the nineteenth year: 1.0% per year x hourly rate x accrued sick leave hours.
- 11.08 In January of each year, an employee with five (5) years or more of service may elect to cash out accrued sick leave. The pay out shall be in accordance with the formulas outlined in Section 11.07 for personnel hired prior to January 1, 1995 and in Sections 11.07.1 - 11.07.5 for personnel hired after January 1, 1995. The maximum amount shall not exceed 50% of an employee's balance. All personnel shall maintain a balance of at least 240 hours.

## **SECTION 12.00 - MILITARY LEAVE**

Military leave shall be granted in accordance with the provisions of State Law. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.

## **SECTION 13.00 - LEAVE OF ABSENCE**

- 13.01 The Human Resources Director may grant a permanent employee leave of absence without pay not to exceed one year. Leave shall be considered upon written request of the Employee.
  - 13.01.1 In evaluating Employee requests, the Human Resources Director shall consider the recommendation of the Department Head, departmental workload, the best interests of the City, the Employee's duration of employment, the Employee's performance record, and the reason for the leave.
  - 13.01.2 Any Permanent Employee with a non-work-related injury or medical condition who has exhausted all sick leave may request a leave of absence with a doctor's certificate. At the City's discretion and expense, the City at any time may require a medical exam at a facility selected by the City.
  - 13.01.3 An Employee who is on leave without pay status shall not earn any employment benefits (including, but not limited to, such benefits as vacation leave, medical benefits, sick leave, retirement benefits, credit for time employed or seniority entitlements of any kind) for the period of such status. It is the intent of this subsection that one on leave without pay status is deemed unemployed for the period of such status in terms of earning benefits.
  - 13.01.4 The City Manager may authorize medical benefits for an employee on leave without pay status in extraordinary circumstances and in the interests of the City. Said benefit shall not be granted in routine circumstances.
- 13.02 The Department Head shall have the authority to approve an unpaid leave not to exceed four (4) weeks.
- 13.03 Upon expiration of the regularly approved leave, or within a reasonable period of time after notice to return to duty, the employee shall be reinstated to the position formerly occupied at the



time leave was granted, (at the same step of the appropriate pay range), provided the employee does not have any disability or condition at the time of reinstatement which would prevent the employee from performing the duties of the position. Failure on the part of an employee on leave to report to duty on the date and time that leave terminates shall be just cause for discharge.

- 13.04 Nothing herein shall preclude an employee from waiving in writing the right to reinstatement as a condition to approval for a leave of absence. An employee who waives the right may request reinstatement in accordance with the City's Personnel Rules & Regulations.

#### **SECTION 14.00 - JURY LEAVE**

- 14.01 An employee, when called to serve on a jury, shall be given leave with pay to do so subject to these conditions:

- 14.01.1 The employee shall notify the department head immediately upon receipt of the notice to serve; and
- 14.01.2 Any payment received by the employee for serving on the jury shall be remitted to the City, except for mileage allowance and fees collected while on a day off.
- 14.01.3 Any employee selected for jury duty who has been released from jury duty for the day, and is required to return to jury duty the following day, shall not be required to return to fire department duty for the remainder of the shift.

#### **SECTION 15.00 - FAMILY LEAVE**

- 15.01 Employees having available sick leave to their credit may draw upon such sick leave for family medical purposes when a member in the employee's immediate family is involved.

- 15.01.1 Immediate family is defined to include: mother, mother-in-law, father, father-in-law, spouse, Domestic partner, brother, sister, son, daughter, or grandparent, and adoptive parents and children whether the immediate family is of the employee's or employee's spouse's family.
- 15.01.2 The use of family leave shall be limited to 72 hours per calendar year.
- 15.01.3 As defined for the purpose of this section, family medical purposes shall be construed to mean illness, accident, medical appointments or other related occurrences.
- 15.01.4 For the purposes of section 11.00, Family Leave usage shall not be viewed or counted as sick leave usage.

- 15.02 Employees may take up to four months unpaid family or medical leave within a 24-month period for the following:

- 15.02.1 Birth of a child, adoption of a child, serious illness of a child, parent or spouse of an employee as well as the employee.

- 15.02.2 The City will continue the same contributions towards medical insurance premiums as during active employment during the first four months. After that the employee can elect to continue benefits at his/her own expense for up to an additional 18 months.
- 15.02.3 Upon return, the employee shall be reinstated to the position formerly occupied at the time leave was granted, (at the same step of the appropriate pay range), provided the employee does not have any disability or condition at the time of reinstatement which would prevent the employee from performing the duties of the position.
- 15.03 Any personnel requesting family leave between 2200 hours and 0800 hours shall be required to take the entire ten (10) hours as leave. Personnel who have taken family leave may not return to duty later than 2200 hours. These restrictions are subject to exceptions at the discretion of the Fire Chief or his designee.
- 15.04 Each employee shall be allowed to use 72 hours of sick leave per calendar year for the birth or adoption of a child. The City will follow all applicable requirements under the FMLA and CFRA with respect to maternity leaves. Following the birth of a child, female employees may utilize paid CTO and vacation leave balances for at least one calendar month as follows: employees shall first exhaust accrued but unused comp time followed by available vacation balance. Employees shall coordinate with the City's Human Resources personnel to ensure HR administrative procedures are observed with respect to such leave. Paid sick leave is available in connection with maternity leaves only when the employee is ill or incapacitated as certified by an appropriate doctor's certificate.

#### **SECTION 16.00 - COMPASSIONATE LEAVE**

- 16.01 The City agrees to provide compassionate leave when death occurs to a member of the employee's immediate family not to exceed one week (56 hours).
  - 16.01.1 Immediate family is defined to include: mother, mother-in-law, father, father-in-law, spouse, Domestic partner, brother, sister, son, daughter or grandparent, and adoptive parents or children whether the immediate family is of the employee's or employee's spouse's family.
  - 16.01.2 Salary paid during this leave is not deducted from any leave balance.
  - 16.01.3 Additional leave may be granted in special circumstances by the City Manager.
  - 16.01.4 Compassionate leave, which is required after the employee reports to duty may be initiated as needed, but must last for the remainder of the shift. An employee may not leave and return under these circumstances.
  - 16.01.5 Within one week after an employee's return from compassionate leave, upon request, the employee shall submit some satisfactory proof that a death in the family occurred.

#### **SECTION 17.00 - OVERTIME**

17.01 Where, in the course of performing their duties, it is necessary for a City employee in the classified service to work more than standard workweek, said employee shall be compensated as follows:

17.01.1 All overtime, scheduled or unscheduled, shall be compensated at the rate of time and one-half or, at the option of the employee, the equivalent compensatory time off to be taken at the convenience of the City. The Local agrees that an employee who works less than eight (8) minutes beyond their normal work hours shall not receive overtime. Overtime shall be based on staffing and service needs as determined by management. Distribution of overtime assignments will be done as equitably as feasible.

It is mutually understood and agreed that the assignment of overtime work by the City is necessary for the provisions of emergency services and as such, the assignment of overtime is at the discretion of the City taking into consideration the needs of the employee.

17.01.2 Emergency Call Back: A minimum of two (2) hours pay or its equivalent in compensatory time off to be taken at the convenience of the City shall be guaranteed for any employee, at the rate of time and one-half, who after leaving his place of duty is required without prior notice to return for emergency duties.

A minimum of three (3) hours pay or its equivalent in compensatory time off to be taken at the convenience of the City shall be guaranteed for any employee, at the rate of time and one-half, who after leaving his place of duty is required without prior notice to return for emergency duties between the hours of 2200 and 0500 am.

17.01.3 Court Testimony: Fire personnel, when required to give court testimony off duty regarding City business shall receive time and one-half for the actual time spent in court and including travel time from Station 1.

17.01.4 For the purpose of this section, overtime payment shall be calculated on an hourly rate derived from the monthly salary being paid to the employee earning the overtime on the date worked.

17.01.5 Hourly rate of pay is defined as base pay plus all regular allowances, provided that the employee earning the overtime is entitled to such addition over base pay by the terms and conditions of this Memorandum of Understanding.

17.01.6 Pursuant to section 7(K) of the Fair Labor Standards Act, the work periods for fire personnel shall be as follows:

17.01.6.1 For personnel assigned to a 4-6 shift, a 24-day period beginning and ending on dates specified by the Fire Chief. Overtime shall be based on hours worked in excess of 182 hours in this period.

17.01.6.2 For personnel assigned to a 3-4 shift, a 27 day period beginning and ending on dates specified by the Fire Chief. Overtime shall be based on all hours worked in excess of 204 hours in this period.

- 17.01.6.3 For personnel assigned to a 40-hour work week, a 28 day period beginning and ending on dates specified by the Fire Chief. Overtime shall be paid based on hours worked in excess of 204 hours in this period.
- 17.01.6.4 The use of leave (sick, vacation, etc.) shall only affect FLSA overtime.
- 17.01.6.5 The 3-4 work schedule is only defined in this MOU for the purpose of personnel assigned to paramedic training at an agency that offers this training on a 3-4 schedule.

## 17.02 Compensatory Time Off

- 17.02.1 Employees assigned to 24-hour shift duty may accrue up to 120 hours of compensatory time off (CTO) in lieu of overtime pay, with a maximum carryover of 80 hours per calendar year. CTO may be scheduled, subject to section 10.09 of this MOU. For 56 hour shift personnel, accrued CTO over eighty (80) hours which is not used by the last day of the pay period that includes December 31, shall be paid off at the current rate applicable on the first pay period ending in January.

Employees assigned to a 40-hour work schedule may accrue up to 120 hours per year, and may carry over up to 120 hours each calendar year. For 40 hour personnel, accrued CTO over 120 hours which is not used by the last day of the pay period that includes December 31 shall be paid off at the current rate applicable on the first full pay period in January.

Personnel may cash out additional CTO (i.e., reduce their CTO balances below the applicable cap -- i.e., 80 or 120 hours).

## SECTION 18.00 - HOLIDAYS

- 18.01 The following are the holidays observed by 40-hour and 56-hour employees:

- (1) January 1 (New Years Day)
- (2) Third Monday in January (observation of Martin Luther King Jr.'s birthday)
- (3) February 12 (President Lincoln's Birthday)
- (4) Third Monday in February (observance of President Washington's Birthday)
- (5) Last Monday in May (observance of Memorial Day)
- (6) July 4 (Independence Day)
- (7) First Monday in September (Labor Day)
- (8) November 11 (Veteran's Day)
- (9) Thanksgiving Day
- (10) The Day After Thanksgiving
- (11) Christmas Eve (to be observed the last working day prior to Christmas)
- (12) December 25 (Christmas Day)
- (13) One Floating Holiday for 40-hour personnel.
- (14) In the event the holiday falls on Sunday the following Monday will be the holiday instead.
- (15) In the event the holiday falls on Saturday the preceding Friday will be the holiday instead.

- (16) Any other holiday declared by the City Council as a paid City holiday for City employees.
- 18.01.1 Personnel assigned to a 4/10 schedule shall be allowed eight (8) hours for any City holiday. The remaining hours of leave shall be taken from the employee's vacation or CTO balance.
- 18.02 It shall be the policy of the Fire Department to allow employees who are required to work on recognized City holidays, as defined in Section 18.01, to reduce work activities provided that minimum levels of equipment and facilities maintenance are maintained and emergency response duties are not impaired. This section shall not apply to special program assignments that may be required to be performed on that day. The intent of this section is to allow those on-duty employees reasonable enjoyment of the holiday within the context of their duties as public safety employees.
- 18.03 Job classifications of Fire Captain, Engineer, Engineer - Paramedic, Firefighter-Paramedic and Firefighter shall be paid six percent (6%) over and above base pay as they are scheduled to work without regard for the above listed holidays.

#### **SECTION 19.00 - TRAINING / TRAINING RELEASE TIME**

- 19.01 Intent: It is the intent of the City to recognize the future growth of the City and its employees and to adopt a training policy which will encourage employees to avail themselves of job-related educational opportunities that will advance their knowledge and interests in the direction of their career with the City; and by so doing to improve the municipal service. This is with the realization that such a policy must be within the financial ability of the City, that the work for which an employee was appointed must be given first preference and that the City does not intend to expend training funds for the primary purpose of enabling an employee to secure a position with other agencies or firms;
- 19.02 Responsibility: Responsibility for developing training programs for employees shall be assumed jointly by the City Manager and department head. Such training programs may include college or university courses, lectures, demonstrations, assignment of reading matter or such other devices as may be available;
- 19.03 General Provisions:
  - 19.03.1 Preparation for classes is to be on the employee's own time.
  - 19.03.2 Only full-time employees shall be eligible for reimbursement of training costs.
  - 19.03.3 To be eligible for reimbursement, employee must have received advance written recommendation by his department head and approval by the City Manager.
  - 19.03.4 Reimbursement to an employee of the registration cost of such course shall be predicated upon the successful completion of the course by said employee.
  - 19.03.5 Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such training must be submitted by the employee for filing in his/her personnel file.

- 19.03.6 Mileage at the then current city schedule from an employee's residence or place of work, whichever is closer, may be paid if:
1. A Training Request is completed; and
  2. The Fire Chief approves the Travel Request and mode of transportation (private car, car pool, City car, etc.)
- 19.04 The Fire Chief and Local 1699 shall prepare a list of courses approved for reimbursement under the City's tuition reimbursement program.
- 19.04.1 Reimbursement shall be provided for the successful completion (grade C or better) of courses from an "approved" list without the individual being required to submit prior approval.
1. The Fire Chief will maintain and post an approved list of courses.
  2. Payment will not be made for a repeat course.
- 19.04.2 City participation to consist of full reimbursement for tuition, registration costs, books and manuals for any class(es) or course(s) to a maximum cost of \$900.00 per calendar year per employee.
- 19.05 Educational Release Time/Educational Leave
- 19.05.1 Definitions:
- Educational Release Time: When an employee is released from duty to attend an approved training or educational event and returns to duty on the same day of the event.
- Educational Leave: When an employee attends an approved training or educational event at a remote location and is not expected to return to duty on the day (or days) of the event.
- Assigned Training: Those training and educational events which are intended to address a specific department need and are assigned by the department administration. These events are not governed by the guidelines of this policy. It is understood that these training opportunities can be of benefit to an individual in career development. Therefore every effort will be made to ensure that such opportunities are distributed throughout the department to the extent practical.
- 19.05.2 In order to ensure return to duty in a timely fashion, educational release time will be granted only for events occurring in Monterey, Santa Cruz, San Mateo, San Francisco, Alameda, Contra Costa, Stanislaus, Solano, San Benito and Santa Clara Counties. It shall be the responsibility of the individual on release time to provide transportation.
- 19.05.3 Educational release time or educational leave shall only be granted for line personnel when staffing levels are above minimum and may be canceled at any time as a result of an unanticipated drop in staffing below minimum, or in event of emergency response or critical department business requiring the presence of the individual

requesting the release time. Critical department business refers to activities which require the presence of the specific individual and which cannot be rescheduled or carried out by someone else.

- 19.05.4 The granting of educational release time or educational leave for individuals on staff assignment, or for Fire Prevention Bureau personnel shall be based on the impact such absence from duty will have on assigned duties and service to the public and will not be impacted by shift staffing levels.
- 19.05.5 Educational release time or educational leave requests may be granted only for approved events which shall include: Certification classes sponsored by the State Fire Marshal's Office (CFSTES), technical fire service workshops sponsored by the State Fire Marshal's Office, California Fire Chiefs' Assn., League of California Cities, or a regularly constituted Fire Agency or agencies or associations which are generally recognized by the Fire Service professional community (e.g. Individual fire department, NFPA, IAFC, IAFF); or for courses presented by a Community College which are directly related to the fire service (including Fire Science and Technology, Emergency Medical Service, Hazardous and Toxic Materials, Emergency Management and Disaster Response, Public Fire and Life Safety Education, Inspection and Code Compliance, Fire Investigation, or Foreign Language courses designed to develop or maintain language skills for field emergency communication). Educational release time or educational leave are not available for such workshops or conventions that are clearly intended for labor issues or purely for social purposes.
- 19.05.6 Educational release time is provided in recognition of the scheduling difficulty presented by the shift firefighters' work schedule. It is not intended to relieve the employee of the responsibility to make every reasonable effort to complete her or his personal educational and training goals on her or his own time.
- 19.05.7 Educational leave is provided to allow fire department employees to attend training sessions and workshops which are held at a remote site and require the employee to travel a great distance to attend. Except as noted below, or as outlined in City procedures or the current M.O.U., the granting of educational leave shall include only the time required to attend and travel to and from the event. Registration, tuition, supplies, meals, lodging, etc. are not included.
- 19.05.8 The amount of release time or leave per individual shift employee shall be limited as follows:
- One college course per semester or quarter or,
  - Four California Fire Academy Certification Courses per year or,
  - One approved workshop or seminar of two days or more per year or,
  - Two approved workshops or seminars of one day or less per year.
- Additional educational efforts shall be the responsibility of the individual to accommodate on their own time or through the use of approved vacation leave or shift trades.
- 19.05.9 In the event of multiple requests for release time which are for similar periods of time, the release time will be rotated equally between the requesting individuals, beginning with the most senior.

- 19.05.10 The Department will also sponsor one qualified member to attend the bi-annual Redmonds Symposium on Fire Fighter safety. The sponsorship shall include leave time, registration, transportation to and from the conference, meals and lodging. Selection for attendance at such symposium shall be made by the Chief or his/her designee, after receiving a recommendation, if any, from the Local.
- 19.05.11 Educational leave requests shall be accompanied by the normal City travel request and shall be forwarded for review and approval at least 45 days in advance of the event.
- 19.05.12 For purposes of this MOU section, minimum daily staffing levels shall be 15 persons plus a Battalion Chief.
- 19.05.13 There shall be no out of state travel provided by the City unless it has been approved by the City Council pursuant to applicable resolutions or ordinances.
- 19.05.14 This policy applies to members of Local 1699, it is not intended to apply to department executive and command staff members. Travel and training rules for management personnel shall be determined exclusively by the Fire Chief and City Manager.

## **SECTION 20.00 - ATTENDANCE**

- 20.01 Employees shall be in attendance at their work in accordance with the provisions of this Memorandum of Understanding regarding hours of work, holidays and leaves.
  - 20.01.1 An employee whose absence is not authorized will not receive pay or benefits for the absent period and shall be subject to discipline. Failure on the part of an employee absent without leave to return to duty shall be (without notice) grounds for discharge. It shall be the responsibility of an employee absent without leave to promptly notify the Duty Chief of the reason the employee is absent and of the employee's availability for duty.
  - 20.01.2 An unauthorized absence up to four hours is considered tardy and an unauthorized absence beyond four hours is considered absent without leave. Both are subject to disciplinary action.
  - 20.01.3 An employee who fails to appear for work for four (4) consecutive work shifts without proper notice or authorized leave shall be deemed to have abandoned his or her position with the City. (M.O.U. Section 7.04)
- 20.02 Personnel assigned to shift work will be scheduled on a 4-6 plan; after working four 24-hour shifts on alternating days shall have four consecutive off-shift days, and shall then work four 24-hour shifts on alternating days to be followed by six consecutive days off. The work cycle shall continue to rotate in this manner throughout the calendar year.

This workweek is defined as a three platoon duty week averaging 56 hours on 24-hour shifts.

- 20.03 Personnel assigned to a 40 hour work week shall be scheduled in accordance with Section 37.



- 20.04 Upon recommendation of a physician, employees with medical work restrictions may be assigned to light duty (in lieu of Labor Code 4850 Time) on a 40-hour work week at the discretion of the City.
- 20.04.1 An employee who elects not to accept light duty assignment will have sick leave deducted on the basis of the employee's 56 hour work week schedule in accordance with Section 11.01 of the Memorandum of Understanding.
- 20.04.2 An employee who accepts light duty assignment, and while on light duty assignment, is absent with authorization, shall have leave deducted in accordance with Section 11 of the Memorandum of Understanding.

## **SECTION 21.00 - STAFFING**

- 21.01 There shall be twenty (20) personnel assigned to each shift with a minimum staffing level of fifteen (15).
- 21.01.1 The City agrees to maintain normal daily staffing at each fire station with one in-service engine company which shall be staffed with at least three (3) personnel. Each engine company shall normally be comprised of one fire captain, one fire engineer and one firefighter. The truck/support company shall normally be comprised of one fire Captain, one fire engineer and one firefighter. For the purposes of this section, individual secondary engines, patrol units, water tenders, squads and similar vehicles which are operated in conjunction with the primary engine or truck shall be considered as an integral part of that primary company.
- 21.01.2 No primary emergency response unit shall be comprised of fewer than three (3) personnel.
- 21.01.3 Each in-service engine and ladder truck shall be operated by an Engineer. An engineer need not be assigned to operate auxiliary or reserve equipment.
- 21.02 It is understood that for brief periods of time, companies with auxiliary equipment may be split due to emergency deployment.
- 21.03 If relief positions are not existing or unavailable, acting positions may be utilized.
- 21.03.1 If overtime is required to meet the numerical staffing requirements, the vacant positions will first be offered to the corresponding overtime list.
- 21.04 Minimum staffing levels
- 21.04.1 It shall be understood that for the purposes of this MOU, minimum shift staffing shall be established at fifteen (15) personnel year round.
- 21.04.2 When staffing is at the established minimum level, personnel shall be assigned to apparatus as follows:
- Engine 1 - three (3) personnel

Truck 1/Rescue 1 - three (3) personnel  
Engine 2 - three (3) personnel  
Engine 3 - three (3) personnel  
Truck 4 - three (3) personnel

21.05 Pilot Program – 4/10 Schedule in the Bureau:

The Fire Chief shall implement a pilot program, permitting 4/10 scheduling in the Fire Bureau, with two positions overlapping. The Fire Chief shall evaluate the program and, in his/her discretion, may terminate the program upon notice to and consultation with the union. Unless the parties agree otherwise, the schedule shall return to that in place prior to implementing the 4/10 pilot program. Unless the Fire Chief takes action to renew the program, it shall expire at the conclusion of this MOU.

**SECTION 22.00 - ACTING OUT OF CLASS**

22.01 When required, all personnel are subject to and shall accept assignment to act at a higher rank at the discretion of the Department Head. Provided, however, that upon ten days prior written notice to the Fire Chief, an employee may elect not to be assigned to a higher rank, specifying the employee's reasons. Thereafter, and except in an emergency, said employee shall not be assigned to, or not be eligible for assignment to act, at a higher rank unless and until the following three requirements are met:

22.01.1 two calendar years have expired;

22.01.2 the employee requests assignment in writing; and

22.01.3 the employee demonstrates that the reasons for his original request no longer apply.

22.02 When so assigned, employees will be compensated out of class pay for the period of the assignment to the higher class.

22.03 Employees who are required to work in a higher classification on a temporary basis shall receive out of class pay equal to ten percent (10%) of their basic hourly rate in addition to their regular pay for all hours worked in the higher classification.

**SECTION 23.00 - STATION ASSIGNMENT**

23.01 Current station and platoon assignments are permanent and subject to the following conditions.

23.02 Permanent vacancies shall be filled by the Fire Chief. Priority consideration shall be given to:

23.02.1 Seniority in Rank.

23.02.2 Employee preferences.

23.02.3 Operational needs and training objectives as determined by the Fire Chief.

23.02.4 Good of the service as defined in 23.03 below.

- 23.03 Administrative platoon or station assignments for the good of the service may be made by the Fire Chief after discussion with individual(s) involved. The Local shall be notified by the Fire Chief prior to the transfer. The good of the service shall include:
1. Personality conflicts.
  2. Disciplinary.
  3. Balancing platoons.
  4. Employee request for personal reasons.
  5. Station and/or platoon traded by mutual agreement (subject to administrative approval).
- 23.04 In the event an individual is deemed to require special or similar rehabilitation, that individual may be temporarily reassigned to another station assignment, provided that adequate documentation is presented to confirm the need for the special assignment. This documentation shall include identification of specific deficiency(ies) in job performance. The duration of the assignment shall be determined by the Fire Chief with the advice of the affected supervisor and Battalion Chief. Specific performance/training objectives shall be identified and provided to the affected employee prior to this assignment.
- 23.05 Personnel may be subject to temporary platoon or station reassignment by the Fire Chief to accommodate long-term vacancies.
- 23.05.1 Temporary reassignments and balancing of platoons will be made based on seniority in rank with low seniority being transferred after consulting with the individual involved and notification to the Local prior to the transfer.
- 23.05.2 Persons receiving temporary reassignments or transfers shall return to last previous assignment upon completion of temporary reassignments or transfers
- 23.06 Entry level personnel on probation are assigned at the Fire Chief's discretion.
- 23.07 All transfer requests shall be subject to the final approval of the Fire Chief.
- 23.08 Bid Process
- 23.08.1 Personnel assigned to a 56-hour week shall be assigned to an individual station and company using the bid process as follows:
- 23.08.2 Bidding for station and company assignments may be initiated among 56-hour personnel every three (3) years upon a written request from Local 1699's Executive Board. The first option to exercise the bid shall occur in October 1998 and take effect in January 1999.
- 23.08.3 Bidding shall occur first by rank then by time in grade seniority. The order of bidding shall be Captains, then Engineers and Engineer/Paramedics and then Firefighters and Firefighter/Paramedics. There shall be no exception to the order in which classifications are bid.
- 23.08.4 The date of the bid shall be announced thirty (30) days in advance. All personnel must be available in person or by phone to exercise their option. Any personnel who

fails to select a position at this time shall be assigned a position at the discretion of the Fire Chief.

- 23.08.5 No bid process shall be initiated within 36 months of a previous bid unless an exception is made by the Fire Chief. The bid process is not subject to arbitration.

#### 23.09 Filling Permanent Vacancies

- 23.09.1 In the event a vacancy in a permanent position occurs during a bid cycle, the position(s) shall be filled using the following process:
- 23.09.2 The vacant position shall be announced, in writing, by the Fire Chief.
- 23.09.3 All personnel eligible to fill the vacant position shall have at least two (2) shifts to respond in writing of their desire to be considered to fill the vacancy.
- 23.09.4 At the end of the allotted period, the Fire Chief shall fill the position with the most senior person who applied for the vacancy.
- 23.09.5 If another vacancy occurs, this process shall continue until all of the available openings have been filled.

#### 23.10 Hazardous Materials Specialists

- 23.10.1 Station 4 has been designated as the station where hazardous materials personnel are assigned. The bid assignment for these personnel shall remain in effect for five (5) years.

### **SECTION 24.00 - EXCHANGE OF TIME**

- 24.01 The responsibility for repayment of the time exchanged between employees rests entirely with the individuals involved. The City assumes no liability whatsoever. Absence due to illness or failure to report to work is the liability of the sick or offending party.

- 24.01.1 Requests for exchanges of time must be made twenty-four (24) hours in advance and are subject to approval by supervising officers. Approving officers are responsible for the qualifications of relieving personnel. The latter must be qualified and otherwise able to perform all of the regular duties of the person being relieved. Acting status is not considered a regular duty. Individuals exchanging time shall accept all responsibility for the time exchanged.
- 24.01.2 Individual requesting exchange of time is not relieved from duty until his/her relief has advised the shift officer that he/she is ready for duty.
- 24.01.3 Exchange of time shall be done for an equal exchange of hours.
- 24.01.4 An officer may only exchange time with another officer or in accordance with Section 24.01.9.
- 24.01.5 Exchange of time is not allowed for outside employment.

- 24.01.6 Approved exchange of time forms are to be forwarded to the Duty Chief involved.
  - 24.01.7 Personnel shall not be permitted to exchange time within 48 hours following the use of sick leave.
  - 24.01.8 It is understood and agreed that management may with just cause cancel exchange of time.
  - 24.01.9 Qualified acting personnel who have satisfied the necessary training requirements may exchange time with personnel of higher rank. Individuals who have successfully completed such training and are qualified to act in a higher rank shall be designated by the Training Officer.
  - 24.01.10 Battalion Chiefs may disapprove exchanges of probationers in case of poor performance.
  - 24.01.11 Officers exchanging time must leave a clear statement of the goals to be achieved during the exchange. The officer that is filling a position as a result of an exchange will accomplish all objectives unless interrupted by an emergency or with the approval of the Duty Chief.
- 24.02 Probationary Firefighters shall not be allowed to exchange time (shift trade) during the first six (6) months of employment. Probationary Firefighters may exchange time (shift trade) after six months with the approval of their immediate supervisor. The immediate supervisor shall consult with the Fire Chief or designee prior to granting approval for such trades to determine whether the trade will negatively impact the performance or training and development of the requesting probationary firefighter.
- 24.03 In order to reduce overtime expenditures, an officer who is replacing an employee of subordinate rank during an exchange of time may be assigned to any officer position, in any station, regardless of the regular duties of the employee being replaced.

## **SECTION 25.00 - SAFETY EQUIPMENT**

- 25.01 The City shall furnish to all represented employees, and periodically inspect, all safety equipment as specified in the applicable department SOP.
- 25.02 Each employee shall be responsible for the repair and replacement of safety pants, boots and cleaning all safety equipment (cleaning safety pants is compensated through the uniform allowance).
  - 25.02.1 Replacement or special cleaning of any safety equipment due to any hazardous material contamination will be the responsibility of the City.
  - 25.02.2 All replaced or repaired safety equipment shall be in accordance with Cal OSHA regulations as they relate to protective equipment for structural fire fighting.
  - 25.02.3 All safety equipment is the property of City and shall only be used for City business.

- 25.03 In the event that the State, through its OSHA Program, requires the purchase of new, different or additional safety equipment, the City will provide equipment as required by applicable law, or meet and confer with the Local.

#### **SECTION 26.00 - DAMAGED PERSONAL ARTICLES (Watches and Eyeglasses)**

The City agrees to repair or replace eyeglasses (including contacts) and watches that become damaged while on duty through no carelessness or neglect on the part of the employee, subject to the following limitations: any compensation for a watch not to exceed \$50.00; any compensation for glasses not to exceed \$150.00; any compensation for contact lenses not to exceed the difference between actual replacement cost and insurance deductible up to a maximum of \$50.00. The employee must apply for any applicable insurance coverage, and the City shall be reimbursed for insurance payouts. The employee shall provide the City with a copy of a receipt for the replaced item in order to receive a reimbursement.

#### **SECTION 27.00 - OUTSIDE EMPLOYMENT**

- 27.01 Employees may engage in other employment or business activity that is not inconsistent, incompatible or in conflict with the Employee's duties and which does not involve time demands that would reduce the Employee's efficiency.
- 27.02 An employee's outside employment, activity or enterprise may be prohibited by the Fire Chief if it:
- (a) Involves the use for private gain or advantage of City time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of the City office or employment.
  - (b) Involves receipt or acceptance by the Employee of any money or other consideration from anyone other than the City for the performance of an act which the Employee, if not performing such act, would be required or expected to render in the regular course of hours of City employment or as a part of regular duties.
  - (c) Involves the performance of an act which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other Employee of the City.
  - (d) Involves such time demands as would reduce the Employee's efficiency.
- 27.03 Employees must notify the Human Resources Director of other employment or business activities in writing, and must receive written approval, prior to engaging in such activities. Unless such notice is impossible or impractical; in such cases notice shall be submitted on the Employee's next working day. Disapproval of other employment may be appealed to the City Manager whose decision shall be final. Other employment shall be kept in the Employee's personnel file and maintained according to Personnel Rules Section 11.00.

#### **SECTION 28.00 - SENIORITY**

- 28.01 Seniority is defined in two ways, depending on the application to given situations: "Time in Grade" and "Time of Employment".
- 28.01.1 Time in grade shall mean the total amount of time which an individual has occupied the current classification since regular appointment (no credit shall be given for acting time except as provided for in the Personnel Rules).
- 28.01.2 Time of employment shall mean the total amount of time which an individual has been employed by the Fire Department since original appointment to regular status.
- 28.02 When the date of employment is the same, time of employment is established by examination score. Examination score will establish badge number.
- 28.02.1 When the date of promotion is the same, seniority concerning time-in-grade is established by the date of hire.
- 28.02.2 When seniority cannot otherwise be determined, time in grade is established by badge number.
- 28.02.3 When individuals are essentially tied in any competitive promotional or special assignment process, time in grade at the immediate lower classification shall determine order of placement on the eligibility list.
- 28.03 Choice of assignments (station, platoon, specialty, etc.) shall occur in order of time in grade from among qualified members.
- 28.04 Vacation selection shall be made in order of time of employment within the selection pool.
- 28.05 Any reduction in rank will result in an employee returning to last held position with retention of seniority previously held in lower rank based on this section.
- 28.06 In the event of a reduction in force, time of employment shall determine the order of lay-off, within the affected classes, with the least senior member laid off first

## **SECTION 29.00 - INCENTIVE PAY**

- 29.01 There shall be a special incentive pay for all safety members in recognition of incorporating EMT-1 and EMT-D skills and certification as the standard of performance for emergency medical response. As set forth below, this incentive shall be incorporated into base pay per the following paragraph.
- 29.01.1 Effective the second full pay period of July 2007 (after the general wage increase of 3% goes into effect), the City shall roll the \$200 per month incentive pay into to a percentage of base pay (i.e., \$2400 per year). After this one time conversion is added to base pay, this shall constitute the City's incentive payment for EMT skills. This conversion shall be cost neutral during the term of this MOU.
- 29.02 There shall be a special incentive pay of \$50.00 per month for all members assigned to the Fire Prevention Bureau who have successfully completed the PC 832 course in the laws of arrest and who successfully complete one course per year from the CFSTES course tracks of Fire

Prevention Officer and Investigator. If any of these courses are not available, Public Education courses may be taken in lieu of the other two.

- 29.03 There shall be a special incentive pay for all members assigned as Fire Prevention or Hazardous Materials Inspectors who successfully complete at least one course per year from those offered by the Office of the State Fire Marshal in the certification program for Fire Prevention, Fire Investigation, or Public Education. Courses of equivalent benefit to the City related to Underground Tank Requirements, Hazardous Waste Investigation, CUPA training, NPS Pollution and Prevention Programs, HAZ WHOPPER, Uniform Code practices and procedures (Fire and/or Building), Title 19 CAC, may be substituted for the certification course presented by the State Fire Marshal, with the approval of the Fire Chief. Equivalent benefit shall be based on the number of instruction hours related to the course, course requirements for successful completion and level of course material. Repeat courses shall not satisfy the requirement to maintain this incentive but required rectification courses shall satisfy the requirement. Proof of successful completion of the course tracks for Fire Prevention, Fire Inspector and Public Education shall satisfy the requirement and maintain this incentive. As set forth below, this incentive shall be incorporated into base pay per the following paragraph.
- 29.03.1 Effective the second full pay period of July 2007 (after the general wage increase of 3% goes into effect), the City shall roll the \$200 per month incentive pay for Haz-Mat certification in the Bureau into to a percentage of base pay (i.e., \$2400 per year). After this one time conversion is added to base pay, this shall constitute the City's incentive payment for HazMat certification in the Bureau. This conversion shall be cost neutral during the term of this MOU.
- 29.04 Educational release time may be offered for these courses according to Department policy. The City shall accrue no overtime liability for attendance at these courses.
- 29.05 Members are entitled to receive only one increase in base pay for the incentives described in paragraphs 29.01.1 and 29.03.1. Further, members who receive an incentive per paragraphs 29.01.1 or 29.03.1 shall not be entitled to receive any further incentives available in paragraphs 29.01 – 29.04.
- 29.06 All sworn and non-sworn employees covered by this MOU shall be entitled to longevity pay as follows:
- 29.06.1 Effective the first full pay period following the completion of an employee's 9<sup>th</sup> year of regular, full time service, a longevity incentive of three percent (3%) over base pay,
- 29.06.2 Effective the first full pay period following the completion of an employee's 14<sup>th</sup> year of regular, full time service, an additional 2% over the previous 3% longevity incentive for a total increase of 5% over base pay.
- 29.06.3 Effective the first full pay period following the completion of an employee's 19<sup>th</sup> year of regular, full time service, an additional 2% over the previous 5% longevity incentive for a total increase of 7% over base pay.

## **SECTION 30.00 - UNIFORM ALLOWANCE**



30.01 All employees shall receive an annual uniform allowance of \$1,000.00 per year. Such allowance shall be paid bi-weekly. In addition, the City shall provide one pair of safety shoes to sworn personnel every two years.

30.01.1 All employees shall equip and maintain uniforms as prescribed by departmental standards.

## **SECTION 31.00 - RETIREMENT**

31.01 The City shall contract with the Public Employees Retirement System (PERS) to provide the retirement plan commonly referred to as the 3% at Age 50 Plan, including the 1959 Survivor's Benefit in full force and effect. The 3% at 50 Plan benefit shall become effective as of the date specified by PERS in its contract with the City.

31.01.1 The City shall amend its contract with PERS to add the benefit under Government Code § 21547.7 – Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service. This will become effective pursuant to PERS rules and regulations.

31.02 Effective January 1, 1995, the City agrees, as allowed under Internal Revenue Code Section 414(h)(2), the implementation of the Public Employees' Retirement System (PERS) "Pick-Up" program (TDMC) as outlined in PERS Circular Letter 100-364. In completing the conversion to the IRS 414 (h) (2) program, the increase in salary shall be calculated on the employee's base salary.

31.03 The City agrees to pay an employee who is retiring an amount equal to 2-1/2% per year of service for unused accrued sick leave. An employee is eligible upon reaching minimum retirement age (but possibly sooner if employee is retiring because of death or disability) with at least 5 years of service. Maximum benefits payable are:

31.03.1	Regular Retirement	100%
31.03.2	Disability Retirement	100%
31.03.3	Death	100%

The pay-out formula will be: 2.5% x years of service x highest hourly rate x sick leave hours accrued. Hours accrued at a 56 hour rate shall not be converted prior to applying this formula. This formula shall apply to employees hired before January 1, 1995.

31.03.4 Employees hired after January 1, 1995 shall be subject to the formula outlined in Sections 11.07.2-11.07.5. Hours accrued at a 56 hour rate shall not be converted prior to applying this formula.

31.04 Retiring Employees - Family Medical Continuation: The City agrees to permit represented retiring employees to pay the cost of continuing a medical plan for family members provided that there shall be no additional cost to the City in permitting the employee to continue medical coverage, except for reasonable administrative costs.

- 31.05 The City shall implement single highest year, third-tier survivor benefit and military service buy-back options as soon as all PERS procedural requirements are satisfied and final approval is received from PERS. The City will assume all costs.
- 31.06 The City agrees to pay the premiums for employees retiring after January 1, 1990 as long as the retiree maintains enrollment in one of the City health plans. Former employees retired prior to January 1, 1990 may continue health plan membership at their own expense as long as membership has been maintained.
- 31.06.1 Retiree medical benefit insurance shall include a provision for employees hired prior to January 1, 1995 and after January 1, 1995 as follows:
- 31.06.2 Employees hired prior to January 1, 1995 shall be subject to the following provisions with respect to post retirement medical insurance benefits:
- Upon completion of the first through the ninth year of service, and upon retirement, the City shall provide 50% of the lesser amount – either the “retiree cap amount” (defined below), or the actual premium, only as long as the employee remains in one of the City sponsored health care programs.
- Upon completion of the tenth year this payment of the retiree's medical insurance shall increase to 100% of lesser amount – either the “retiree cap amount” or the actual premium.
- 31.06.3 Employees hired after January 1, 1995 shall be subject to the following provisions with respect to post retirement medical insurance benefits, upon and after PERS retirement.
- Upon completion of the first through the ninth year of service, and upon retirement, the City shall provide 25% of the lesser amount – either the “retiree cap amount” or the actual premium for the employee only as long as the employee remains in one of the City sponsored health care programs.
- Upon completion of the ninth year this payment of the retiree's medical insurance shall increase to 50% of the lesser amount – either the “retiree cap amount” or the actual premium.
- Upon completion of the fourteenth year this payment of the retiree's medical insurance shall increase to 75% of the lesser amount – either the “retiree cap amount” or the actual premium.
- Upon completion of the nineteenth year this payment of the retiree's medical insurance shall increase to 100% of the lesser amount - either the “retiree cap amount” or the actual premium.
- 31.06.4 Retiree cap amount: For employees who are otherwise eligible for a health care contribution pursuant to this MOU after retiring from City service, and who retire after the date this MOU is approved by the City Council, the following caps apply: the City's contribution is limited to 15% more than the City's single, medical premium contribution for active employees at the Kaiser rate (hereafter the “retiree

cap amount”). [For example: If the active employee maximum City contribution for a single plan is \$210/month, the retiree will be eligible for up to  $\$210 + 15\% = \$241.50$ /month. If the retiree’s plan premium is \$241.50 or less, the City will pay the applicable premium only. If the retiree’s plan premium is greater than \$241.50, the City will pay \$241.50 toward the premium and the retiree will be responsible for the remainder

## **SECTION 32.00 - SALARY**

The monthly salary schedule establishing base salaries and the formula for compensation increases during the term of this memorandum, a copy of which is attached as Appendix "A" is hereby incorporated by this reference as though set forth in full herein.

## **SECTION 33.00 - BENEFITS**

- 33.01 The City will contribute toward medical benefits, capped at the applicable Kaiser plan rate (i.e. single rate for single employees; two party rate; family rate; etc.). Dependents must be eligibility requirements under plan terms.
  - 33.01.1 Unit members may apply their medical benefit contributions toward health premiums for approved and available health plan providers other than Kaiser. Any additional cost for such coverage will be the responsibility of the member and may be deducted from the member's pay check on a monthly basis.
  - 33.01.2 The City shall contribute One Hundred Fifty dollars (\$150.00) per month, per employee toward the cost of the Dental Fund. The Local agrees to meet and confer with City representatives during the term of this MOU regarding the Dental Fund, including without limitation: (a) the future of the program; (b) whether the program is and will be viable and effective; (c) whether a third party administrator, or other dental insurance arrangement, is preferable.
  - 33.01.3 The City shall contribute toward a long-term disability program for each eligible full-time employee provided that the premium does not exceed twenty dollars (\$20.00) per month. Such payments shall be made to employees as part of their monthly compensation and shall be subject to taxes and deducted monthly from such compensation.
- 33.02 In the event the parties agree to maintain the existing Dental Fund, it shall remain subject to the following conditions:
  - 33.02.1 Secured by a trust agreement.
  - 33.02.2 City and Local approved bylaws.
  - 33.02.3 Local recognizes and agrees that City may audit dental fund and agrees to cooperate in the audit.
- 33.03 The City will pay for a vision plan covering each permanent employee and eligible dependents.

- 33.04 The City agrees to provide CALPERS Domestic Partners health coverage.
- 33.05 Employees who are covered as an eligible dependent under another health insurance plan may waive health coverage and receive a total of one hundred and twenty-five dollars (\$125.00) per month towards compensation in a cafeteria plan, as permitted by law. Employees who wish to waive health insurance coverage must complete the City of Milpitas' "Health Insurance Waiver" indicating they agree to abide by the terms and conditions of the waiver.
- 33.06 Trainees shall receive benefit as follows: (1) full medical coverage; (2) uniform allowance; (3) dental coverage; (4) enrollment in PERS. After graduation from the fire academy: (1) holiday in lieu pay; (2) EMT incentive pay (if certified). Trainees shall not be eligible for floating holidays or other compensation elements not listed in this section 33.06. Benefits shall accrue on a 56 hour work week basis, and a standard work day is equivalent to 11.2 hours. Vacation and sick pay shall begin to accrue upon appointment to the trainee position.
- 33.07 The City shall contribute fifty dollars (\$50) per employee per month towards a qualified deferred compensation plan made available by the City (IRC § 457) to be designated by the employee.

#### **SECTION 34.00 - RETIREE DEPENDENT HEALTH CARE FUND**

##### **34.01 The Retiree Dependent Health Care Fund**

The City will contribute 1% of payroll with benefits to a fund to be used to help pay the medical premiums of dependents of eligible retirees, and dependents of eligible employees who became deceased while still employed (the "Fund"). The City's annual 1% of payroll with benefits contribution shall be recalculated each fiscal year based on the applicable payroll as of the last full pay period in June. The City will annually deposit this amount in the Fund approximately fifteen (15) days following the last day of the last full pay period in June.

This Fund will be administered by the City, subject to rules for the fund's administration to be put in place as soon as reasonably practicable after this MOU is adopted. During the interim the City agrees to implement the dependent fund in accordance to CalPERS rules of eligibility.

- 34.02 Initial Funding: The City's initial contribution to the Fund will be pro-rated to the first pay period after the MOU is approved by the City Council.
- 34.03 City's Financial Obligation Limited to 1%. In no case will the City be required to place funds in the Fund above the 1% of payroll and benefits as specified in this MOU.
- 34.04 Contributions From the Fund Toward Retiree Dependent Premiums: Contributions from the Fund toward the medical premiums covering dependents of retirees and eligible surviving dependents of deceased employees shall be limited as follows:
- 34.04.1 100% for permanent IAFF employees hired prior to January 1, 1995, and retired or deceased while employed on or after the Council's adoption of this MOU, who have at least ten (10) years of full-time or equivalent service with the City of Milpitas.
- 34.04.2 50% for permanent IAFF employees hired prior to January 1, 1995, and retired or deceased while employed on or after the Council's adoption of this MOU, who have

at least five (5), but less than ten (10) years of full-time or equivalent service with the City of Milpitas.

34.04.3 For permanent IAFF employees hired on or after January 1, 1995, and retired or deceased while employed on or after the Council's adoption of this MOU, who have at least five (5) years of full-time or equivalent service with the City of Milpitas:

- (i) 25% for retirees with less than nine (9) years of service;
- (ii) 50% for retirees upon completion of nine full (9) years of service;
- (iii) 75% for retirees upon completion of fourteen full (14) years of service;
- (iv) 100% for retirees upon completion of nineteen full (19) years of service.

34.04.4 Any payments from the Fund to eligible dependents of IAFF employees who became deceased while employed prior to the adoption of this MOU shall be made prospectively only.

#### **SECTION 35.00 - NO DISCRIMINATION**

35.01 The City of Milpitas will not discriminate in employment practice in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical handicap, marital status, or political opinion or affiliation or local activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

35.02 The Local shall not restrict its membership in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical handicap, marital status, or political opinion or affiliation or local activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

#### **SECTION 36.00 - NO STRIKE**

The Local, on its own behalf and on behalf of the unit employees it represents, agrees that during the term of this MOU, and throughout all periods when there is any effort or procedure underway to arrive at a successor Agreement, and during any period when the law prohibits strike activity, there will be no strike, work stoppage, concerted unauthorized absences, slow-down, or refusal to cross picket lines of any sort; and that the Local will not directly or indirectly encourage or condone such actions by unit employees, and will promptly undertake all possible steps to cause any such actions to cease.

Any bargaining unit member violating this provision shall be subject to disciplinary action, up to and including termination of employment.

This provision may be specifically enforced in any court of competent jurisdiction.

The parties agree that notwithstanding the no strike provision of the existing MOU, firefighters may, with the approval of the Fire Chief, shop for food items outside of their district in order to avoid crossing a picket line.

## **SECTION 37.00 - HAZARDOUS MATERIALS SPECIALIST**

- 37.01 Except as provided herein (see, e.g., MOU § 21.04.3), there shall be a special incentive pay equal to 6% of an individual's base salary for each member assigned to the Hazardous Materials focus assignment and who has received certification as a Hazardous Materials Specialist. The Fire Chief may amend this requirement for qualification for incentive pay in the event State and Federal standards for this activity are changed.
- 37.02 There shall be at least two (2) Hazardous Material Specialists on duty at all times. Any deviation from this section shall be approved by the Fire Chief prior to implementation.

## **SECTION 38.00 - MISCELLANEOUS**

- 38.01 All shift relief overtime shall be paid at the 24-hour rate.
- 38.02 Light Duty (Pregnancy): City agrees to temporarily transfer a pregnant employee to a less strenuous and less hazardous assignment for the duration of her pregnancy upon her request and upon the written recommendation of her physician (and physician's release of the employee to work) upon the following conditions:
- 38.02.1 That the temporary assignment may be in any department of the City.
  - 38.02.2 That the duties to be performed in said temporary assignment shall be those designated by the City provided that the duties shall be consistent with the written recommendations of the employee's physician.
  - 38.02.3 Said employee shall not be increased or reduced in pay or benefit by virtue of said temporary transfer.
- 38.03 Special Assignment: At the City's discretion, special assignments may be made to Fire Prevention, Training, and administrative functions to provide special services without permanent appointments or promotions. Special assignments in each category requires minimum training, experience, and education. It is agreed that assignments which carry additional compensation (i.e. "special assignments") will be open to all qualified employees. The City and Local agree to discuss the method of selection.
- It is also agreed that the City will meet and confer with the Local regarding compensation for special assignments.
- 38.03.1 Transfer from a Special Assignment: The City may transfer an employee from an special assignment even though said transfer will result in a loss of pay, benefits or privileges. No such transfer shall be made:
  - 38.03.2 Without reasonable notice (as the circumstances permit) to such employee.
  - 38.03.3 The employee's written objections, if any, are considered by the Department Head before the transfer is final.

- 38.03.4 Such transfers shall not be for disciplinary purposes, and the City shall not be required to comply with pre-disciplinary or disciplinary procedures in connection therewith.
- 38.04 Stress Reduction: The City will continue a program that will include in-house motivational meetings and voluntary stress assessments for those wishing to participate. Off-duty participation shall be at an individual's choice and not subject to overtime payment. The City agrees to maintain, repair or replace physical fitness equipment during the term of this agreement.
- 38.05 Safety Committee: A Safety Committee under the direction of the Fire Chief will be established to examine and make recommendation(s) related to the health and safety of Fire personnel during station work, training, physical fitness, and emergency operations.
- 38.06 Bilingual Allowance: The City agrees to pay a premium of 2.5% of firefighter base pay for employees with bilingual skills who are assigned in writing to utilize their bilingual skills in departmental duties. The specific selection of positions which will receive bilingual pay and the languages which will qualify for bilingual pay shall be made by the City upon the request of the employee.
- 38.07 VDT Glasses: The City will reimburse an employee up to a maximum of \$150 per calendar year for eyeglasses when prescribed by a physician for use at a video display terminal.
- 38.08 Safety Glasses: The City shall reimburse up to \$175 per employee per calendar year towards the purchase of safety prescription eyeglasses provided that they are not covered by the employee's health plan. Replacement costs may be covered upon approval of the City Manager or his/her designee if there has been a significant change in the employee's prescription or damage occurred as a result of a work-related incident. The employee shall provide the City with a copy of a receipt for the replaced item in order to receive a reimbursement
- 38.9 The City shall provide and launder blankets, sheets, pillows (pillows provided only) pillow slips and bath towels for showers to Fire personnel for use while on duty.
- 38.10 Used linen is turned in after four shifts and clean linen issued when employees return from days-off. Two issued blankets are cleaned once each fiscal year as scheduled.
- 38.11 Provision of utensils, dishes, portable appliances, pots, pans, soaps, and laundering of dish towels for kitchen use shall be the responsibility of the City.

## **SECTION 39.00 - 40 HOUR WORKWEEK**

- 39.01 40 hour workweek: Shift employees temporarily assigned to a 40 hour workweek shall maintain the same benefits (leave accrual and holiday pay) as those individuals assigned to 24-hour shifts subject to the following conditions:
- 39.01.1 Each hour of vacation will result in a 1.4 hour deduction from the accrued vacation hours.
- 39.01.2 Each hour of sick leave will result in a 3 hour deduction from the accrued sick leave. The 2 shift for 1 shift provision will not apply.

- 39.01.3 Shift employees assigned to a 40 hour workweek shall observe City holidays as defined in Section 18.00.
- 39.02 Change in Regular Assignments: When the regular assignment of a member is changed from a 56 hour to a 40 hour work week, or from a 40 hour to a 56 hour week, accrual rates for vacation and sick leave shall be changed to the appropriate rate on the effective date of change.
- 39.02.1 Employees shall earn vacation credits at the rate of 3.39 hours bi-weekly for each full two weeks of service.
- 39.02.2 After completion of the fourth year of service, vacation credits for employees shall be increased to the rate of 4.92 hours bi-weekly for each full two weeks of service.
- 39.02.3 After completion of the ninth year of service, vacation credits for employees shall be increased to the rate of 6.46 hours bi-weekly for each full two weeks of service.
- 39.02.4 After completion of the fourteenth year of service, vacation credits for employees shall be increased to the rate of 8.0 hours bi-weekly for each full two weeks of service.
- 39.02.5 After completion of the nineteenth year of service, vacation credits for employees shall be increased to the rate of 9.5395 hours bi-weekly for each full two weeks of service.
- 39.02.6 On or about December 1 of each year the Department Head will circulate a vacation roster for the forthcoming year. Employees are encouraged to indicate vacation choices. On or about January 1 of each calendar year the Department Head will post an approved vacation calendar for the year. Approval will be granted after the supervisor and Department Head give consideration to the employee's wishes and the needs of the City. Employees may change vacation dates with the approval of the Department Head.
- 39.02.7 No employee may accumulate and carry over more than 180 hours of vacation beyond the last day of the pay period that includes December 31 without the express approval of the City Manager. Personnel that exceed the 180 hour limit shall be cashed out for these hours at the first full pay period in January.
- 39.02.8 Each fiscal year, an employee may elect to cash out a maximum of 40 hours of accrued vacation leave. An employee whose accrued annual leave exceeds three weeks, may elect to cash out maximum of 80 hours.
- 39.02.9 Employees shall be granted sick leave credits at the rate of 3.6923 hours for each two full weeks of service.
- 39.02.10 Employees using more than 40 hours of sick leave shall be requested to submit a doctor's certificate authorizing such leave and indicating the nature of the illness or injury. Cost of doctor's certificate shall be paid by the employee.
- 39.02.11 Employees will be allowed to use a maximum of 40 hours of sick leave per calendar year for family leave.



- 39.02.12 The City agrees to provide compassionate leave when death occurs to a member of the employee's immediate family, not to exceed 40 hours.
- 39.02.13 Employees assigned to a 40 hour work week shall receive an annual uniform allowance of \$1,000 per year, during the term of this MOU. Such allowances shall be paid bi-weekly.
- 39.03 Personnel assigned to a 4/10 schedule shall be allowed eight (8) hours for any City holiday. The remaining two hours of leave shall be taken from the employee's vacation or CTO balance.
- 39.04 Emergency Call Back: A minimum of three (3) hours pay or its equivalent in compensatory time off to be taken at the convenience of the City shall be guaranteed for any employee, at the scheduled rate, who after leaving his/her place of duty is required without prior notice to return for emergency duties.
- A minimum of four (4) hours pay or its equivalent in compensatory time off to be taken at the convenience of the City shall be guaranteed for any employee, at the scheduled rate, who after leaving his/her place of duty is required without prior notice to return for emergency duties between the hours of 2100 and 0600.
- 39.05 Change in Regular Assignment: When the regular assignment of a member is changed from a 56 hour to a 40 hour work week, or from a 40 hour to a 56 hour work week, accrual rates for vacation and sick leave shall be changed to the appropriate rate on the effective date of the change.
- 39.05.1 All original hours accrued at the previous rate shall remain in a separate leave bank and may be taken as leave according to department policy.
- 39.05.2 All hours subsequently accrued at the new rate shall be placed in a separate leave bank and may be taken as leave according to department policy.
- 39.05.3 Where accrued sick and vacation leave is converted to cash it shall be paid at the current hourly rate for the affected classification from the applicable leave banks listed in Sections 39.05.1 and 39.05.2.
- 39.05.4 Employees who choose to cash out sick leave from their 56 hour leave bank shall abide by the following: (1) separation from the City pay out shall be determined by Section 11.07; (2) accrued sick leave pay out shall be determined by Section 11.08; and (3) retirement pay out shall be determined by Sections 31.01 through 31.06.3.
- 39.05.5 Employees who choose to cash out vacation leave from their 56 hour leave be converted to cash at the accrual rate earned.

#### **SECTION 40.00 - TRAINEE CLASSIFICATION**

- 40.01 The classification of Trainee shall be established which will precede the classification of Firefighter in the personnel system.

- 40.02 Individuals who are selected to fill a vacant entry-level Firefighter position shall be appointed to the position of Trainee until the successful completion of the basic fire academy. The trainee classification shall receive salary and health insurance, and other applicable benefits approved by the City Manager.
- 40.03 Upon successful completion of the basic fire academy, a trainee shall be elevated to probationary status as a Firefighter and shall be entitled to the full package of benefits and accruals relating to that classification.
- 40.04 Exchange of time privileges for the classification of trainee are contained in Section 24.02.
- 40.05 Salary compensation for the classification of trainee are contained in Section 9.02.1.
- 40.06 Individuals who are appointed to the Trainee classification and who possess substantial experience as a Firefighter with another agency, may be appointed at or above the A step in the salary schedule by the Fire Chief, in recognition of the value of that experience.

#### **SECTION 41.00 - LIGHT DUTY**

- 41.01 Members who are unable to perform the full scope of their assigned duties as a result of illness or injury shall be offered the opportunity for a temporary modified work assignment. Such assignment shall occur only with the written approval of a qualified medical doctor. The City may require the approval of the designated City physician.
- 41.02 Modified work assignments shall not be offered to employees who suffer from communicable diseases which could expose others in the workplace or to employees who have reached a permanent level of disability which will preclude that employee from returning to his or her regular assignment.

#### **SECTION 42.00 - PARAMEDIC PROGRAM**

This section describes the first responder paramedic program in place in the City of Milpitas. If this City desires to implement a tertiary level transport component (e.g. AMR, S.T.A.R., Car concept) of the Santa Clara County EMS System, the City will notify the Local, and meet and confer concerning those subjects that are within the scope of representation.

##### **42.01 Paramedic Staffing**

The City anticipates that the maximum staffing of paramedics shall be fifteen (15) (five per platoon). The operational priority of paramedic deployment will be determined by the City, based on need as indicated by data and trend analysis.

Station assignments shall be determined by seniority bid (based on date of permanent hire), with two paramedics per platoon assigned to relief.

Minimum staffing for paramedics shall be two (2) per shift; however, the Fire Chief shall have discretion to reduce staffing to one (1), due to economic impacts caused by long term absences.

The City will provide notice to the Union in advance of any change in the deployment of paramedics. In the event redeployment is determined to be permanent, a mid-cycle bid shall be conducted pursuant to section 23.09.

- 42.02 Paramedic Incentive: Only active certified paramedics, assigned to the paramedic program by the Fire Chief, shall receive a 12% differential incentive pay while assigned to the paramedic program.
- 41.03 Paramedic Incentive – In-actives: Certified paramedics who are not formally assigned to the paramedic program by the Fire Chief shall receive a 5% differential as an incentive pay while on active status and contingent upon their maintaining current certification. The City shall not be responsible for paying for continuing education for inactive paramedics. Inactive paramedics may be assigned paramedic responsibilities, at the discretion of the Fire Chief, in order to maintain minimum staffing or for other legitimate service needs. Inactive paramedics assigned to active paramedic duty shall receive an additional 7% incentive pay for the period of the assignment (not less than a shift).
- 42.04 The paramedic coordinator shall be selected by the Fire Chief based on applications submitted at least one month in advance of the assignment. The assignment shall last eighteen (18) months, or for a different period, at the discretion of the Fire Chief.
- 42.05 Paramedic Commitment: All personnel who are trained by the City shall remain in the program for at least five (5) years. If personnel leave the program prior to the fifth year, they shall be responsible to reimburse the City in an amount equal to one month of their current salary plus the cost of tuition, books and related materials. (The cost of tuition, books and related materials shall not exceed \$4500.) All personnel who are trained by the City must give at least six months written notice to leave the program. Personnel who fail to give at least six months notice shall become liable to the City for \$4,500.

The reimbursement schedule shall be as follows:

Training and First year:	100%
Second year:	75%
Third year:	50%
Fourth year:	25%
Fifth year:	10%

If an employee is expelled from the training program for disciplinary action or for failing to meet the training program requirements, the employee shall be held responsible for 100% reimbursement. The reimbursement schedule shall also apply to personnel who retire prior to completing their five year commitment.

- 42.05.1 Exceptions to Reimbursement Program (for employees who act in good faith but fail to achieve certification):
- 42.05.2 If any employee in good faith, is unable to complete the program despite the employee's best efforts, the employee shall not have a reimbursement requirement. If any employee fails to pass the background check for State certification, the employee shall not be required to reimburse the City. Personal hardship cases concerning leaving the program before the end of a five year commitment shall be reviewed by the City on an individual basis.

- 42.06 The City shall continue to provide continuing education benefits for all paramedic positions.
- 42.07 Personnel who achieve paramedic certification on their own shall be eligible for up to \$4,500 reimbursement for the cost of tuition, books and related materials. In order to receive reimbursement, employees must: (a) have received advance written approval by the Fire Chief to participate in the certification program; (b) apply prior to the fiscal year's budget process to ensure incorporation of the cost in the budget (and the cost must be approved in the budget process); and (c) provide proof of successful completion of the program.

Time to attend any of these classes shall be the sole responsibility of the individual, and shall not cause the City to incur any costs. The City may deny leaves in the event it would cause an overtime expenditure due to minimum staffing. Personnel may exercise the leave benefits outlined in MOU section 19.5.

- 42.08 Paramedic personnel hired prior to January 1, 1996 must remain in the paramedic program for at least two years prior to being eligible for promotion to Captain.

Paramedic personnel hired on or after January 1, 1996: may not promote to engineer until they have a minimum of three years experience in the Milpitas Fire Department; and may not promote to Captain until they have a minimum of five years experience in the Milpitas Fire Department. Paramedic personnel hired on or after January 1, 1996 must remain as an active paramedic until promotion to Captain or separation from City services.

City Representatives:

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Art Hartinger – Lead Negotiator

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Carmen Valdez – Human Resources Director

Local Representatives:

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Ralph Moss – IAFF President

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Yvonne Matagulay

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George Perez

## **Appendix A-1: Salary Schedule July 2005**

Salary Schedule - As of July 01, 2005

<b>Job Classification</b>	<b>Monthly Range</b>		
Captain/Pub Education	\$7,398.06	-	\$8,992.47
Fire Captain	\$7,324.83	-	\$8,903.44
Fire Engineer	\$6,436.76	-	\$7,823.92
Fire Engineer/Paramedic (12% above Fire Engineer)	\$7,209.15	-	\$8,762.78
Fire Prevention Inspector	\$7,398.06	-	\$8,992.47
Firefighter	\$6,003.51	-	\$7,297.18
Firefighter Trainee (10% below Firefighter)	\$5,457.73	-	\$6,633.79
Firefighter/Paramedic (12% above Firefighter)	\$6,723.92	-	\$8,172.84
Firefighter/Paramedic Trainee (10% below Firefighter/Paramedic)	\$6,112.67	-	\$6,112.67
Hazardous Materials Inspector	\$7,398.06	-	\$8,992.47

### **Salary Increases**

- For the period July 1, 2005 through June 30, 2006, represented employees shall not receive a general wage increase to their base salary.
- Effective the first pay period of July 1, 2006, represented employees shall receive a 1% general wage increase to their base salary.
- Effective the first pay period after January 1, 2007, represented employees shall receive a 2% general wage increase to their base salary.
- Effective the first full pay period after July 1, 2007, represented employees shall receive a 3% general wage increase to their base salary.

## **Appendix A-2: Salary Schedule July 2006**

Salary Schedule - As of July 09, 2006 (1%)

<b>Job Classification</b>	<b>Monthly Range</b>		
Captain/Pub Education	\$7,472.04	-	\$9,082.39
Fire Captain	\$7,398.08	-	\$8,992.47
Fire Engineer	\$6,501.13	-	\$7,902.16
Fire Engineer/Paramedic (12% above Fire Engineer)	\$7,281.24	-	\$8,850.41
Fire Prevention Inspector	\$7,472.04	-	\$9,082.39
Firefighter	\$6,063.55	-	\$7,370.15
Firefighter Trainee (10% below Firefighter)	\$5,512.30	-	\$6,700.13
Firefighter/Paramedic (12% above Firefighter)	\$6,791.16	-	\$8,254.57
Firefighter/Paramedic Trainee (10% below Firefighter/Paramedic)	\$6,173.80	-	\$6,173.80
Hazardous Materials Inspector	\$7,472.04	-	\$9,082.39

### **Appendix A-3: Salary Schedule January 2007**

Salary Schedule - As of January 07, 2007 (2%)

<b>Job Classification</b>	<b>Monthly Range</b>		
Captain/Pub Education	\$7,621.48	-	\$9,264.04
Fire Captain	\$7,546.04	-	\$9,172.32
Fire Engineer	\$6,631.15	-	\$8,060.20
Fire Engineer/Paramedic (12% above Fire Engineer)	\$7,426.87	-	\$9,027.42
Fire Prevention Inspector	\$7,621.48	-	\$9,264.04
Firefighter	\$6,184.82	-	\$7,517.55
Firefighter Trainee (10% below Firefighter)	\$5,622.55	-	\$6,834.13
Firefighter/Paramedic (12% above Firefighter)	\$6,926.98	-	\$8,419.66
Firefighter/Paramedic Trainee (10% below Firefighter/Paramedic)	\$6,297.27	-	\$6,297.27
Hazardous Materials Inspector	\$7,621.48	-	\$9,264.04

#### **Appendix A-4: Salary Schedule July 2007**

Salary Schedule - As of July 08, 2007 (3%)

<b>Job Classification</b>	<b>Monthly Range</b>		
Captain/Pub Education	\$7,850.13	-	\$9,541.96
Fire Captain	\$7,772.42	-	\$9,447.49
Fire Engineer	\$6,830.08	-	\$8,302.01
Fire Engineer/Paramedic (12% above Fire Engineer)	\$7,649.67	-	\$9,298.24
Fire Prevention Inspector	\$7,850.13	-	\$9,541.96
Firefighter	\$6,370.36	-	\$7,743.08
Firefighter Trainee (10% below Firefighter)	\$5,791.22	-	\$7,039.16
Firefighter/Paramedic (12% above Firefighter)	\$7,134.79	-	\$8,672.25
Firefighter/Paramedic Trainee (10% below Firefighter/Paramedic)	\$6,486.19	-	\$6,486.19
Hazardous Materials Inspector	\$7,850.13	-	\$9,541.96